



**ROANOKE CITY COUNCIL  
REGULAR SESSION**

**JULY 18, 2005  
2:00 P.M.**

**CITY COUNCIL CHAMBER**

**AGENDA**

**1. Call to Order--Roll Call.**

The Invocation will be delivered by Council Member Sherman P. Lea.

The Pledge of Allegiance to the Flag of the United States of America will be led by Mayor C. Nelson Harris.

Welcome. Mayor Harris.

**NOTICE:**

Today's Council meeting will be replayed on Channel 3 on Thursday, July 21, 2005, at 7:00 p.m., and Saturday, July 23, 2005, at 4:00 p.m. Council meetings are offered with closed captioning for the hearing impaired.

## **ANNOUNCEMENTS:**

THE PUBLIC IS ADVISED THAT MEMBERS OF COUNCIL RECEIVE THE CITY COUNCIL AGENDA AND RELATED COMMUNICATIONS, REPORTS, ORDINANCES AND RESOLUTIONS, ETC., ON THE WEDNESDAY PRIOR TO THE COUNCIL MEETING TO PROVIDE SUFFICIENT TIME FOR REVIEW OF INFORMATION. CITIZENS WHO ARE INTERESTED IN OBTAINING A COPY OF ANY ITEM LISTED ON THE AGENDA MAY CONTACT THE CITY CLERK'S OFFICE, ROOM 456, NOEL C. TAYLOR MUNICIPAL BUILDING, 215 CHURCH AVENUE, S. W., OR CALL 853-2541.

THE CITY CLERK'S OFFICE PROVIDES THE MAJORITY OF THE CITY COUNCIL AGENDA ON THE INTERNET FOR VIEWING AND RESEARCH PURPOSES. TO ACCESS AGENDA MATERIAL, GO TO THE CITY'S HOMEPAGE AT [WWW.ROANOKEVA.GOV](http://WWW.ROANOKEVA.GOV), CLICK ON THE ROANOKE CITY COUNCIL ICON, CLICK ON MEETINGS AND AGENDAS, AND DOWNLOAD THE ADOBE ACROBAT SOFTWARE TO ACCESS THE AGENDA.

ALL PERSONS WISHING TO ADDRESS COUNCIL ARE REQUESTED TO REGISTER WITH THE STAFF ASSISTANT WHO IS LOCATED AT THE ENTRANCE TO THE COUNCIL CHAMBER. ON THE SAME AGENDA ITEM, ONE TO FOUR SPEAKERS WILL BE ALLOTTED FIVE MINUTES EACH, HOWEVER, IF THERE ARE MORE THAN FOUR SPEAKERS, EACH SPEAKER WILL BE ALLOTTED THREE MINUTES.

ANY PERSON WHO IS INTERESTED IN SERVING ON A CITY COUNCIL APPOINTED AUTHORITY, BOARD, COMMISSION OR COMMITTEE IS REQUESTED TO CONTACT THE CITY CLERK'S OFFICE AT 853-2541, OR ACCESS THE CITY'S HOMEPAGE AT [WWW.ROANOKEVA.GOV](http://WWW.ROANOKEVA.GOV), TO OBTAIN AN APPLICATION.

## **2. PRESENTATIONS AND ACKNOWLEDGEMENTS:**

Recognition of Summer Interns.

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Proclamation declaring the year 2005 as Virginians With Disabilities Act and Americans With Disabilities Act Year.

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3.

## CONSENT AGENDA

ALL MATTERS LISTED UNDER THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE BY THE MEMBERS OF CITY COUNCIL AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THE ITEMS. IF DISCUSSION IS DESIRED, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

- C-1 Minutes of the regular meeting of Council held on Monday, June 6, 2005.

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RECOMMENDED ACTION: Dispense with the reading of the minutes and approve as recorded.

- C-2 A communication from Mayor C. Nelson Harris requesting that Council convene in a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended.

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RECOMMENDED ACTION: Concur in the request.

- C-3 Minutes of a meeting of the Audit Committee which was held on Monday, June 20, 2005.

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RECOMMENDED ACTION: Receive and file.

- C-4 A communication from the City Manager requesting that Council schedule a public hearing for Monday, August 15, 2005, at 7:00 p.m., or as soon thereafter as the matter may be heard, to execute a new lease with the United States General Services Administration for office space in the Commonwealth Building.

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RECOMMENDED ACTION: Concur in the request.

- C-5 A communication from the City Manager requesting that Council schedule a public hearing for Monday, August 15, 2005, at 7:00 p.m., or as soon thereafter as the matter may be heard, to execute a new lease with Carilion Biomedical Institute for office space at 111 - 117 Church Avenue, S. W.

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RECOMMENDED ACTION: Concur in the request.

- C-6 A communication from the City Manager requesting that Council convene in a Closed Meeting to discuss the disposition of publicly-owned property, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711 (A)(3), Code of Virginia (1950), as amended.

RECOMMENDED ACTION: Concur in the request.

- C-7 Qualification of the following persons:

Barry W. Baird as a member of the Roanoke Valley Greenway Commission, for a term ending June 30, 2008;

John B. Ferguson as a member of the Court Community Corrections Program Regional Community Criminal Justice Board, for a term ending June 30, 2008;

Betty Field, Louise F. Kegley, Carl H. Koptizke, Michael A. Loveman and E. C. Pace, III, as members of the Mill Mountain Advisory Committee, for terms ending June 30, 2008;

Cathy C. Greenberg as a member of the Roanoke Arts Commission, to fill the unexpired term of Courtney A. Penn, resigned, ending June 30, 2007;

Thomas Pettigrew as a member of the Parks and Recreation Advisory Board, for a term ending March 31, 2008; and

Barton J. Wilner as a member of the Roanoke Valley Convention and Visitors Bureau, for a term ending June 30, 2006.

RECOMMENDED ACTION: Receive and file.

## **REGULAR AGENDA**

### **4. PUBLIC HEARINGS: NONE.**



## 5. PETITIONS AND COMMUNICATIONS:

- a. Request to address Council with regard to the backflow prevention test which is required on existing residential underground lawn sprinkler systems. Suzanne Osborne, Spokesperson. (Sponsored by Council Members Lea and Wishneff.)

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## 6. REPORTS OF OFFICERS:

- a. CITY MANAGER:

BRIEFINGS: NONE.

### ITEMS RECOMMENDED FOR ACTION:

1. Acceptance of the Local Government Challenge Grant from the Commonwealth of Virginia Commission for the Arts; and appropriation of funds.
2. Acceptance of the Project Safe Neighborhoods Grant from the U. S. Department of Justice; and appropriation of funds.
3. Appropriation of Economic and Community Development Reserve for Façade Grant funds, in connection with the Enterprise Zone One A Project.
4. Execution of the Workforce Investment Act Grant Agreement with the Virginia Employment Commission for Program Year 2006.
5. Execution of the 2005–2006 Community Development Block Grant Subgrant Agreement with Kuumba Community Health & Wellness Center, Inc., in connection with acquisition of property located at 3716 Melrose Avenue, N. W.
6. Execution of Voluntary Remediation Program Documents and Declaration of Restrictive Covenants between the City of Roanoke and the Virginia Department of Environmental Quality, in connection with the use of property located at 704 Franklin Road, S. W., for a fully-staffed Fire Station/Administration Building.

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B/O 76;  
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P 78;  
B/O 80;  
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P 82;  
B/O 84

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O 111

7. Execution of the Programmatic Agreement in connection with the I-73 Corridor Project.

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R 114

8. Transfer of \$125,000.00 in connection with Mill Mountain Theater capital improvements.

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B/O118

- 7. REPORTS OF COMMITTEES: NONE.**
- 8. UNFINISHED BUSINESS: NONE.**
- 9. INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS: NONE.**
- 10. MOTIONS AND MISCELLANEOUS BUSINESS:**
- a. Inquiries and/or comments by the Mayor and Members of City Council.
  - b. Vacancies on certain authorities, boards, commissions and committees appointed by Council.
- 11. HEARING OF CITIZENS UPON PUBLIC MATTERS:**
- CITY COUNCIL SETS THIS TIME AS A PRIORITY FOR CITIZENS TO BE HEARD. MATTERS REQUIRING REFERRAL TO THE CITY MANAGER WILL BE REFERRED IMMEDIATELY FOR RESPONSE, RECOMMENDATION OR REPORT TO COUNCIL.
- 12. CITY MANAGER COMMENTS:**

CERTIFICATION OF CLOSED SESSION.



**ROANOKE CITY COUNCIL  
REGULAR SESSION**

**JULY 18, 2005  
7:00 P.M.**

**CITY COUNCIL CHAMBER**

**AGENDA**

**Call to Order -- Roll Call.**

The Invocation will be delivered by Council Member Alfred T. Dowe, Jr.

The Pledge of Allegiance to the Flag of the United States of America will be led by Mayor C. Nelson Harris.

Welcome. Mayor Harris.

**NOTICE:**

Tonight's Council meeting will be replayed on Channel 3 on Thursday, July 21, 2005, at 7:00 p.m., and Saturday, July 23, 2005, at 4:00 p.m. Council meetings are offered with closed captioning for the hearing impaired.

## **A. PUBLIC HEARINGS:**

1. Amendment and Restated Articles of Incorporation of the Western Virginia Water Authority, changing the terms of office of members of the Board of Directors to begin on July 1. William M. Hackworth, City Attorney.
2. Proposed conveyance of a 1.2508 acre portion of City-owned property located on Carroll Avenue, N. W., to the Western Virginia Water Authority. Darlene L. Burcham, City Manager.
3. Proposed lease of a portion of City-owned property located at the Roanoke Civic Center to Roanoke Sports Group, LLC, for use as office space as part of the terms of a License Agreement for operation of a hockey team. Darlene L. Burcham, City Manager.

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## **B. HEARING OF CITIZENS UPON PUBLIC MATTERS:**

**CITY COUNCIL SETS THIS TIME AS A PRIORITY FOR CITIZENS TO BE HEARD. MATTERS REQUIRING REFERRAL TO THE CITY MANAGER WILL BE REFERRED IMMEDIATELY FOR RESPONSE, RECOMMENDATION OR REPORT TO COUNCIL.**



**CITY OF ROANOKE**  
**OFFICE OF THE CITY MANAGER**

Noel C. Taylor Municipal Building  
215 Church Avenue, S.W., Room 364  
Roanoke, Virginia 24011-1591  
Telephone: (540) 853-2333  
Fax: (540) 853-1138  
CityWeb: [www.roanokegov.com](http://www.roanokegov.com)

June 20, 2005

The Honorable Mayor and Members of City Council  
Roanoke, Virginia

Dear Mayor and Members of Council:

I would like to sponsor a request from Carolyn Glover, Human Resource Administrator, for recognition by Council of the summer interns for 2005.

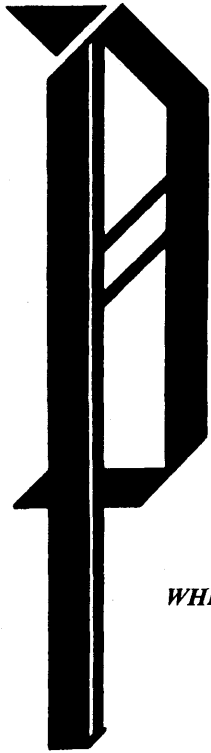
Respectfully submitted,

A handwritten signature in cursive script, reading "Darlene L. Burcham".

Darlene L. Burcham  
City Manager

DLB:sm

c: City Attorney  
Director of Finance  
City Clerk



Office of the Mayor

CITY OF



ROANOKE

# Proclamation

**WHEREAS,** March 2005 marked the 20<sup>th</sup> anniversary of the Virginians with Disabilities Act, which declared that "it is the policy of this Commonwealth to encourage and enable persons with disabilities to participate fully and equally in the social and economic life of the Commonwealth and to engage in remunerative employment"; and

**WHEREAS,** July 26, 2005 marks the 15<sup>th</sup> anniversary of the Americans with Disabilities Act, which is a landmark civil rights law banning discrimination against the nation's 54 million people with disabilities; and

**WHEREAS,** these two laws work to ensure that people with disabilities are free from discrimination, treated with respect and dignity, move freely about the community, and live in the least restrictive environment; and

**WHEREAS,** work remains to be done throughout city, state and federal governments to fulfill the promise of both the Virginians with Disabilities Act and the Americans with Disabilities Act, and this anniversary is an appropriate occasion to reflect on the forward strides that have been made and on the work that remains to be done.

**NOW, THEREFORE, I, C. Nelson Harris, Mayor of the City of Roanoke, Virginia, to encourage equal opportunity for all citizens and to recognize the 20<sup>th</sup> anniversary of the Virginians with Disabilities Act and the 15<sup>th</sup> anniversary of the Americans with Disabilities Act, do hereby proclaim the year 2005 throughout this great All-America City, as**

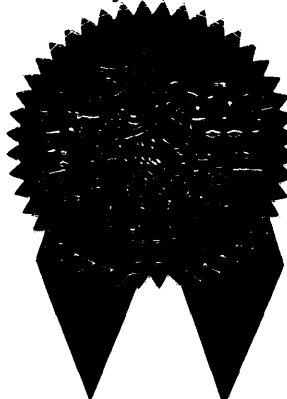
**VIRGINIANS WITH DISABILITIES ACT and  
AMERICANS WITH DISABILITIES ACT YEAR.**

Given under our hands and the Seal of the City of Roanoke this fifteenth day of July in the year two thousand and five.

ATTEST:

*Mary F. Parker*

Mary F. Parker  
City Clerk



C. Nelson Harris  
Mayor

## ROANOKE CITY COUNCIL

June 6, 2005

9:00 a.m.

The Council of the City of Roanoke met in regular session on Monday, June 6, 2005, at 9:00 a.m., in the Emergency Operations Center Conference Room, Room 159, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, with Mayor C. Nelson Harris presiding, pursuant to Chapter 2, Administration, Article II, City Council, Section 2-15, Rules of Procedure, Rule 1, Regular Meetings, Code of the City of Roanoke (1979), as amended, and pursuant to Resolution No. 36762-070604 adopted by the Council on Tuesday, July 6, 2004.

PRESENT: Council Members Beverly T. Fitzpatrick, Jr. (arrived late), Brenda L. McDaniel, Brian J. Wishneff, M. Rupert Cutler, Alfred T. Dowe, Jr. (arrived late) and Mayor C. Nelson Harris-----6.

ABSENT: Council Member Sherman P. Lea-----1.

The Mayor declared the existence of a quorum.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

COMMITTEES-CITY COUNCIL: A communication from Mayor C. Nelson Harris requesting that Council convene in a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to §2.2-3711 (A)(1), Code of Virginia (1950), as amended, was before the body.

Council Member Cutler moved that Council concur in the request to convene in Closed Meeting as above described. The motion was seconded by Council Member McDaniel and adopted by the following vote:

AYES: Council Members McDaniel, Wishneff, Cutler and Mayor Harris---4.

NAYS: None-----0.

(Council Member Lea was absent and Vice-Mayor Fitzpatrick and Council Member Dowe were not present when the vote was recorded.)

COMMITTEES-CITY COUNCIL: A communication from Council Member Alfred T. Dowe, Jr., requesting that Council convene in a Closed Meeting to discuss the annual performance of three Council-Appointed Officers, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended, was before the body.

Council Member McDaniel moved that Council concur in the request to convene in Closed Meeting as above described. The motion was seconded by Council Member Cutler and adopted by the following vote:

AYES: Council Members McDaniel, Wishneff, Cutler and Mayor Harris---4.

NAYS: None--- -----0.

(Council Member Lea was absent and Vice-Mayor Fitzpatrick and Council Member Dowe were not present when the vote was recorded.)

CITY COUNCIL: A communication from the City Manager requesting that Council convene in a Closed Meeting to discuss disposition of publicly-owned property, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to §2.2-3711 (A)(3), Code of Virginia (1950), as amended, was before the body.

Council Member McDaniel moved that Council concur in the request to convene in Closed Meeting as above described. The motion was seconded by Council Member Cutler and adopted by the following vote:

AYES: Council Members McDaniel, Wishneff, Cutler and Mayor Harris---4.

NAYS: None-----0.

(Council Member Lea was absent and Vice-Mayor Fitzpatrick and Council Member Dowe were not present when the vote was recorded.)

CITY COUNCIL: A communication from the City Manager requesting that Council convene in a Closed Meeting to discuss the terms of a public contract where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to §2.2-3711 (A)(3), Code of Virginia (1950), as amended, was before the body.



Council Member Cutler moved that Council concur in the request to convene in Closed Meeting as above described. The motion was seconded by Council Member McDaniel and adopted by the following vote:

AYES: Council Members McDaniel, Wishneff, Cutler and Mayor Harris---4.

NAYS: None-----0.

(Council Member Lea was absent and Vice-Mayor Fitzpatrick and Council Member Dowe were not present when the vote was recorded.)

CITY COUNCIL: A communication from the City Manager requesting that Council convene in a Closed Meeting to discuss acquisition of real property for a public purpose where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to §2.2-3711 (A)(3), Code of Virginia (1950), as amended, was before the body.

Council Member McDaniel moved that Council concur in the request to convene in Closed Meeting as above described. The motion was seconded by Council Member Cutler and adopted by the following vote:

AYES: Council Members McDaniel, Wishneff, Cutler and Mayor Harris---4.

NAYS: None-----0.

(Council Member Lea was absent and Vice-Mayor Fitzpatrick and Council Member Dowe were not present when the vote was recorded.)

CITY COUNCIL: A communication from the City Manager requesting that Council convene in Closed Meeting to discuss acquisition of real property for a public purpose where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711 (A)(3), Code of Virginia (1950), as amended, was before the body.

Council Member McDaniel moved that Council concur in the request to convene in Closed Session as above described. The motion was seconded by Council Member Cutler and adopted by the following vote:

AYES: Council Members McDaniel, Wishneff, Cutler and Mayor Harris---4.

NAYS: None-----0.

(Council Member Lea was absent and Vice-Mayor Fitzpatrick and Council Member Dowe were not present when the vote was recorded.)

At 9:05 a.m., Vice-Mayor Fitzpatrick and Council Member Dowe entered the meeting.

ITEMS LISTED ON THE 2:00 P. M., COUNCIL DOCKET REQUIRING DISCUSSION/CLARIFICATION, AND ADDITIONS/DELETIONS TO THE 2:00 P. M., AGENDA: NONE.

TOPICS FOR DISCUSSION BY THE MAYOR AND MEMBERS OF COUNCIL: NONE.

ITEMS FOR DISCUSSION AT A JOINT MEETING OF COUNCIL AND THE CITY PLANNING COMMISSION ON TUESDAY, JULY 5, 2005, AT 12:00 P.M.: NONE.

BRIEFINGS:

FLOOD REDUCTION/CONTROL: The City Manager introduced Colonel Charles R. Alexander, Jr., District Engineer, U. S. Army Corps of Engineers, Wilmington District, for a briefing on the Roanoke River Flood Reduction Project.

Colonel Alexander introduced Wayne Bissette, Chief, Engineering; Max Hromiak, Construction Engineer; and Jan Brodmerkel, Project Manager, U. S. Army Corps of Engineers, who would answer questions in connection with the briefing.

Colonel Alexander presented the following project summary:

Project Cost Estimate: \$65.3 million

Federal: \$45.8 million

Non-Federal - \$19.5 million

Real estate and utility relocations - \$10.8 million

Cash - \$8.7 million

**Major Project Components:**

Flood warning system (stream and rain gages) - 1991

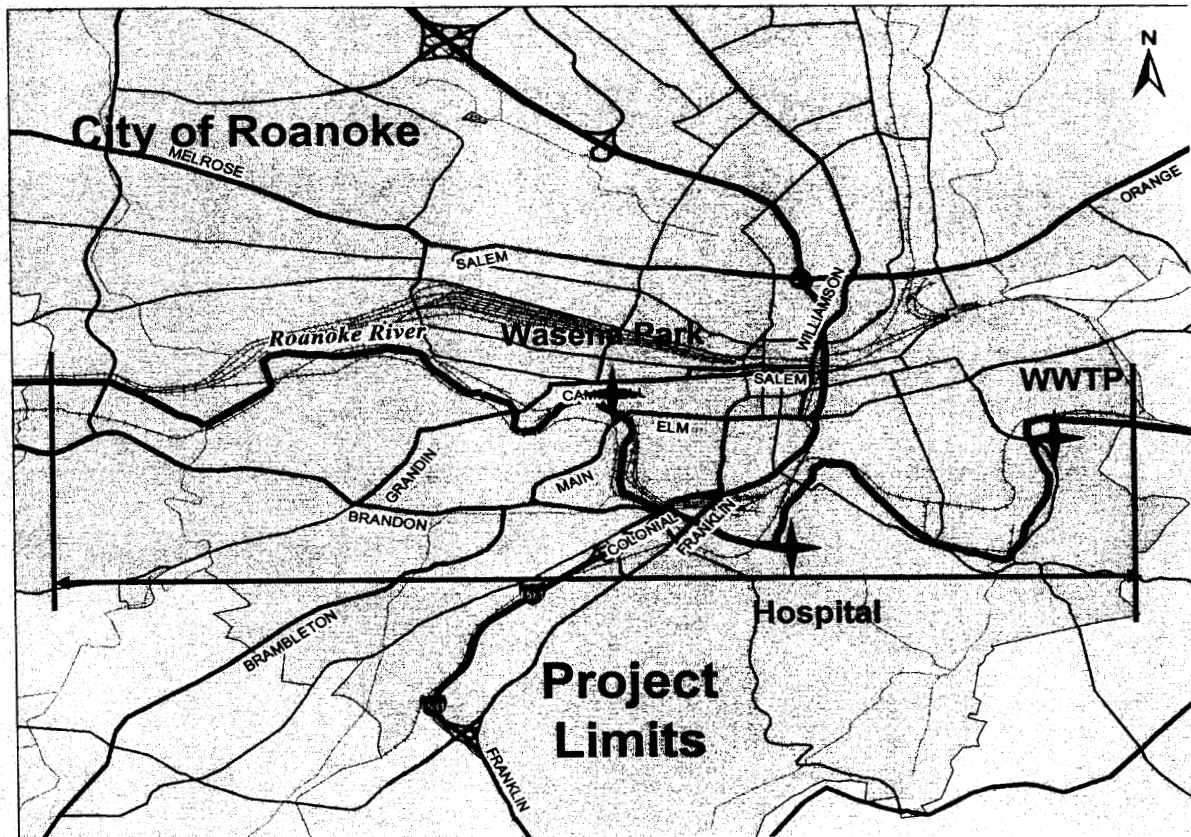
Floodproofing Sewage Treatment Plant - 1993

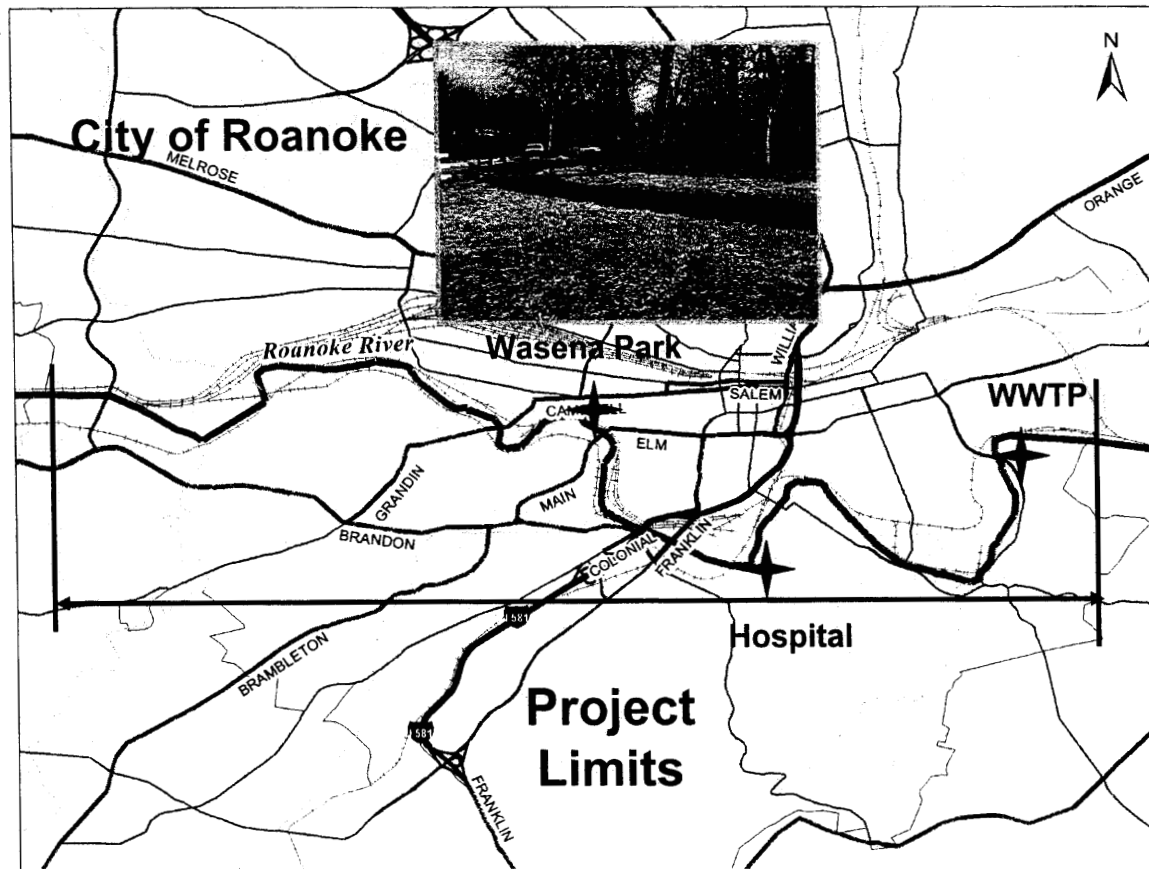
Floodproofing hospital (reimbursement) - 1993

Channel improvements (bench cuts and training walls)

Recreation trail (completed Wasena Park portion)

The following maps were reviewed depicting project limits, recreation trail and parking area, future construction of bench cuts and estimated stage reductions.









U.S. Army Corps  
of Engineers  
Wilmington District

## Estimated Stage Reductions

| <u>LOCATION</u>             | <u>10YR</u> | <u>25YR</u> | <u>50YR</u> | <u>100YR*</u> |
|-----------------------------|-------------|-------------|-------------|---------------|
|                             | ft          | ft          | ft          | ft            |
| At Industrial Park          | 0.8         | 0.9         | 0.8         | 0.7           |
| Upstream of Walnut Street   | 1.9         | 2.2         | 2.2         | 2.2           |
| Victory Stadium             | 1.2         | 2.0         | 2.0         | 2.3           |
| Upstream of Franklin Road   | 0.2         | 0.5         | 0.8         | 1.8           |
| Upstream of lower Wiley Dr. | 2.0         | 1.9         | 1.6         | 2.0           |
| Upstream of upper Wiley Dr. | 1.7         | 0.8         | 0.0         | 0.0           |
| Wasena Park                 | 2.5         | 2.0         | 1.4         | 1.1           |

\* Flood Frequency

Estimated stage reductions are shown in feet

Fiscal year 2005 construction includes the following:

Four bench cuts between the Waste Water Treatment Plant and 9<sup>th</sup> Street: Industrial Development, APCO Yard (Roanoke Station), upstream of 13<sup>th</sup> Street and downstream of 13<sup>th</sup> Street.

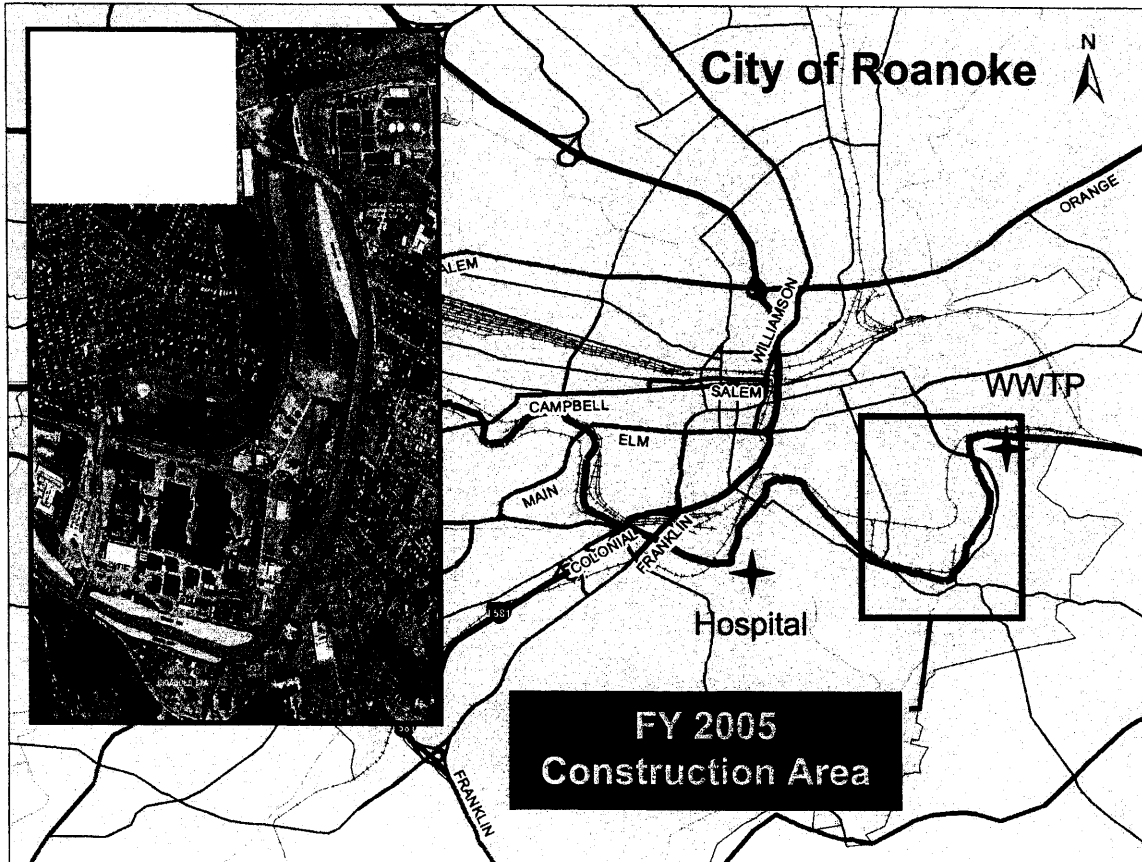
Recreation trail - 900 feet between Franklin Road and the pedestrian bridge for Victory Stadium.

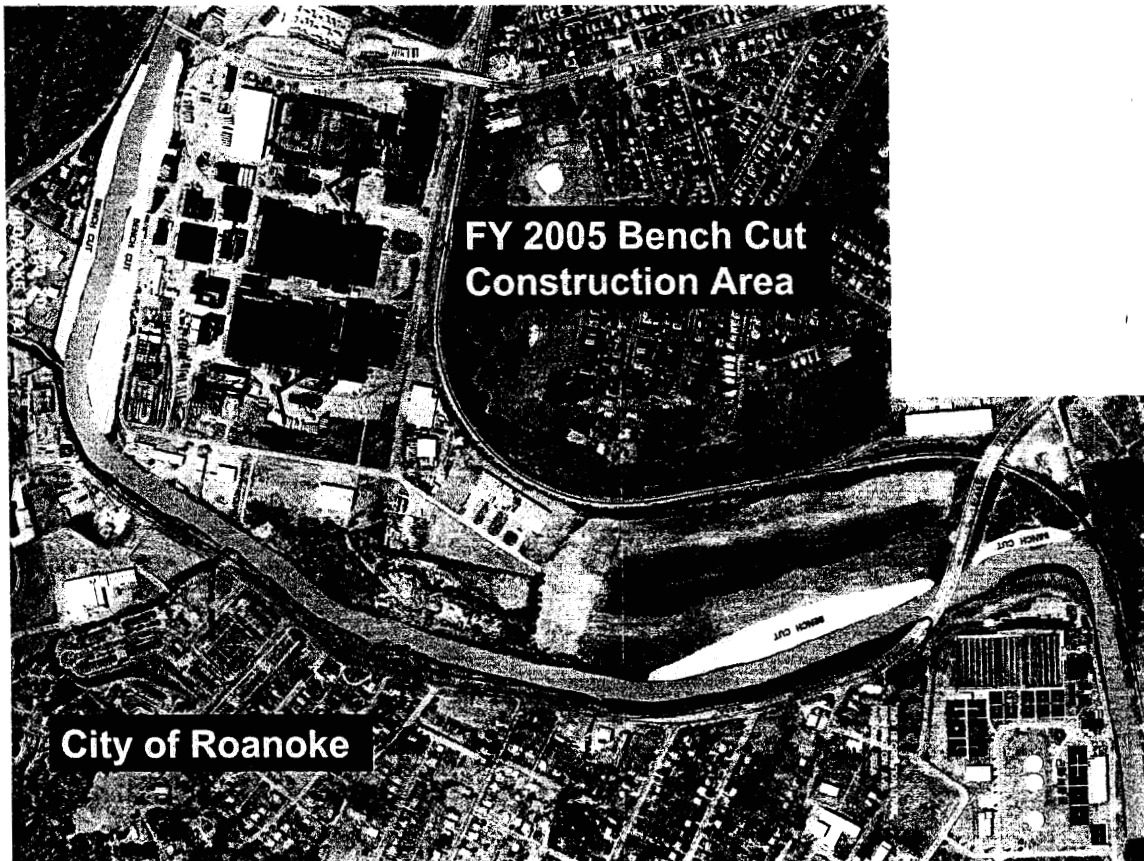
Landscaping.

Channel snagging and debris removal.

Rip rap for bridges.

Colonel Alexander reviewed the following fiscal year 2005 construction area and bench cut construction area.





Fiscal year 2005 contract status is as follows:

- May 25 - concluded negotiations
- June 1 - received SBA approval
- June 2 - issued Notice in Federal Business Opportunities
- June 20 - issue Invitation for Bid
- July 20 - open bids
- August 1 - award contract
- August 15 - issue Notice to Proceed

Issues include requested use of continuing contract clause and approval to carry over funds into fiscal year 2006.



Fiscal year 2006 construction:

Preparing for fiscal year 2006 construction in fiscal year 2005:

Coordinate with City on contract elements

Request approval for a continuing contract

Preparing plans and specifications

Complete field work for cultural resources site at APCO Service Center upstream of 9<sup>th</sup> Street

City obtains additional disposal areas

Proposed fiscal year 2006 contract elements

Additional bench cuts upstream of 9<sup>th</sup> Street

Recreation trail – between Wastewater Treatment Plant and 9<sup>th</sup> Street

Landscaping

Channel snagging and debris removal

Estimated Federal funding:

Through fiscal year 2005 – \$17.1 million

Through fiscal year 2006 – \$5 million

Through fiscal year 2007 – \$8.3 million

Through fiscal year 2008 – \$7 million

Through fiscal year 2009 – \$6.3 million

Through fiscal year 2010 – \$2.1 million

Total project cost estimate: \$65.3 million

Federal: \$45.8 million

Non-Federal: \$19.5 million

In conclusion, Colonel Alexander advised that there is a commitment to build both flood reduction and recreation features, the project will reduce flooding, a contract will be awarded in fiscal year 2005 (continuing contract and permission to carry over funds), preparation of plans and specifications for fiscal year 2006, and completion of cultural resource field work for fiscal year 2006 construction contract.

He emphasized that no phase of the project will be left with barren earth and landscaping will take place in each component; the Corps of Engineers will work with the City on a more appropriate name for the training wall; training walls allow admittance to limited areas due to existing structure, and infrastructure allows for required flood reduction features without further excavation and acquisition and disposition of existing property; the elevation of bench cuts is above the current river channel; and it is not intended to alter the hydrology of the Roanoke River in any respect.

With regard to future development along the Roanoke River, Colonel Alexander emphasized the importance of keeping in mind that double handling of material and time distance in terms of hauling material increases costs; the Corps of Engineers is a learning organization and has used information from previous Roanoke flood events to fine tune plans and specifications for the Roanoke River Project. He assured Council of the personal and organizational commitment to complete the project; currently, the Corp's civil works budget is flat, this year the Wilmington District received approximately \$20 million more than last year, and he remains optimistic that the flow of dollars through 2010 will continue, however, of paramount importance is the continuing strong relationship and support of Congressional representatives.

The City Manager inquired as to any actions that the City could take to ensure that the project moves forward; whereupon, Colonel Alexander spoke to the importance of maintaining continuing communication with Congressman Bob Goodlatte. He stated that during his visit to Roanoke in September 2004, as the flood waters were cresting, he suggested that the City capture the event through photographs, and measure damage in order to keep the issue at the forefront with the City's Congressional delegation and with the Governor. He added that the projects that tend to fair the best are those where all parties speak with one voice so that the message is not watered down or filtered by the time it reaches Congress.

Discussion centered around future development of the Roanoke River; the Roanoke River is an environmental gem for the City of Roanoke; landscaping issues; a greenway trail from the City of Salem to Roanoke County through the City of Roanoke and Explore Park as soon as possible as the primary recreation trail in the region; and protection of the Roanoke log perch.

On behalf of the Members of Council and the City administration, the Mayor expressed appreciation to Colonel Alexander for his presentation.

#### CITY MARKET:

The City Manager advised that inasmuch as Advantis Real Estate Services Company is no longer the management entity for the City Market Building, it is impractical for the City to enter into a short term management agreement with another management company; therefore, City staff, specifically the Department of Economic Development, will be responsible for managing the operation of the City Market Building on a temporary basis. She called upon R. Brian Townsend, Acting Director of Economic Development, for a status report.

Mr. Townsend advised that:

- The transition from operating under Advantis Real Estate Services Company to the City's Department of Economic Development will involve the handling of lease renewals and the leasing of space by Economic Development staff for the foreseeable future.
- City Staff will meet with City Market Building tenants to review current leases on a provision by provision basis to ensure that there is an understanding of obligations in terms of payment, fees, etc.
- City Staff will work in conjunction with the Purchasing Department to ensure a smooth transition, to retain vendors and to maintain business relationships.
- With the coming of the new art museum on the viaduct parking lot, operational changes were necessary to remove the Market Building dumpster.
- The Market Building Tenants Association is working toward incorporation and prior to this time, tenants were paying \$50.00 per month per tenant that went into a market building fund.
- Turnover in the Market Building has been low, with no new tenants since 2002; the oldest tenant has operated in the building for 19 years, the newest tenant has occupied the building for three years, and the average length of stay is approximately ten years.

- Delinquency of rental payments has been an issue (\$47,000.00 – \$48,000.00 in December 2004), with three to four tenants comprising the bulk of delinquencies. All tenants who were delinquent in their payments have now been placed on a payment plan and it is anticipated that all tenants will be in compliance by September, 2005.
- The majority of leases will expire on or about the same time; average square footage is 457 square feet at \$35.00 per square foot; 12 leases will expire in the foreseeable future, five leases have currently expired, and staff will focus on the next critical issue of devising a standard lease document in a simplified format.
- Food court and non food court tenants pay a standard Common Area Maintenance (CAM) fee per month and it is important to establish the CAM fee at a rate that covers the reasonable cost of operating the Market Building.
- Currently, approximately 1900 square feet of vacant leaseable space is available that could accommodate four additional tenants.
- The third floor will require structural improvements.

Anita Wilson, President, City Market Building Tenants Association, was requested to provide a status report on incorporation of the Tenants Association; whereupon, she advised that the Tenants Association anticipates receipt of the Articles of Incorporation this week and it is anticipated that all required transactions will be completed in approximately 45 days.

Mr. Townsend was requested to give an update on the City Market study; whereupon, he advised that seven firms responded to the Request for Proposals, interviews were conducted and the preferred consultant was selected, the final detailed scope of work and study schedule has not been received from the consultant, and a July 1 start date for the study is anticipated.

The City Manager advised that because the contract has not been executed with the consultant, the name of the consulting firm cannot be revealed, however, the firm has considerable background and experience in the field, and following execution of the contract, all stakeholders will be given an opportunity to provide input.

Council Member Wishneff suggested that representatives of the consulting firm be invited to attend the Council's 9:00 a.m., work session on Tuesday, July 5, 2005.

There was discussion with regard to City Market Building lease renewals which will require approval by Council; the exclusivity clause; extended hours/Sunday hours of operation; revenues and expenses and the need for the City to subsidize City Market Building operations. The Director of Finance advised that the City's General Fund budget included a \$35,000.00 subsidy for the City Market, and vendors and market operations generate \$61,000.00 in direct taxes to the City; i.e.: meals tax, sales tax and business license tax.

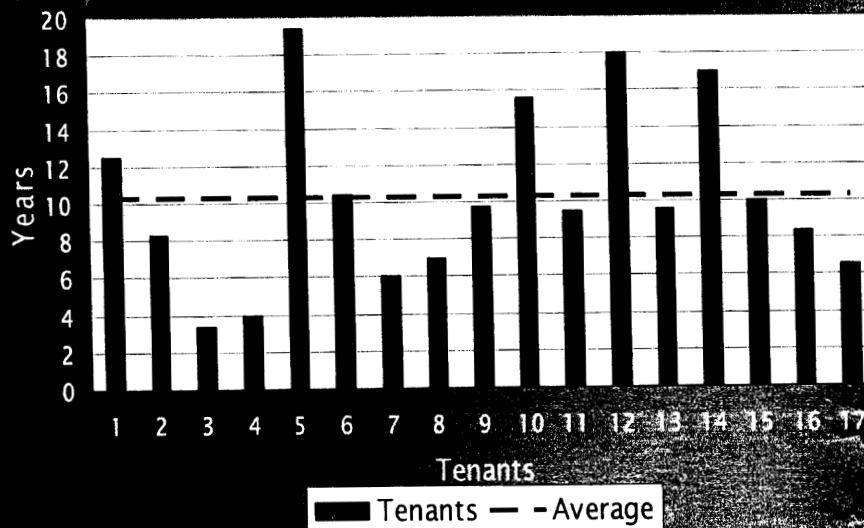
Question was raised as to whether the City will engage the services of a management firm to operate the City Market building, or will the building be operated by the City; whereupon, the City Manager advised that operating the City Market Building on a permanent basis is not an activity that the City should engage in.

Mr. Townsend reviewed the following charts with regard to lease commencement by year, average tenancy of current tenants, delinquent rent from May 2004 to May 2005, lease expirations by year from 2003 - 2011, average square feet of current tenants (475 square feet), average base rent per square foot (\$34.72), and the status of current leases.

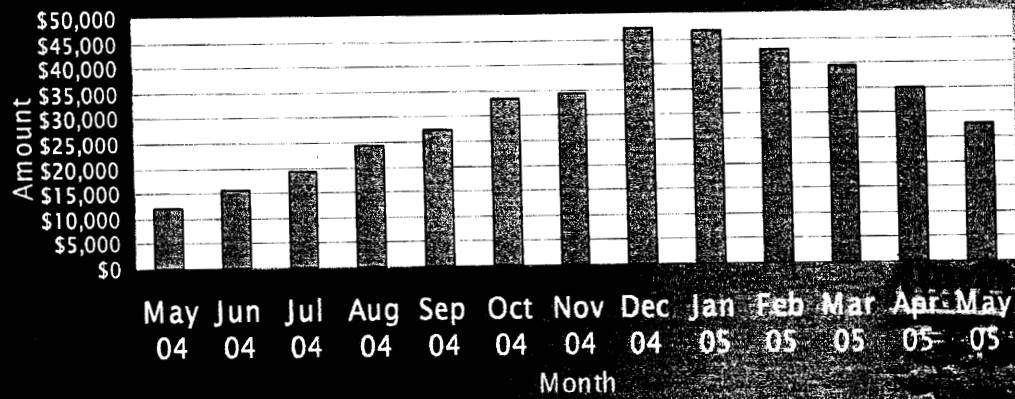


## AVERAGE TENANCY OF CURRENT TENANTS

Average tenancy is 10 years

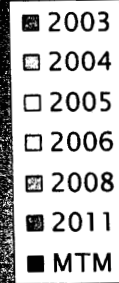
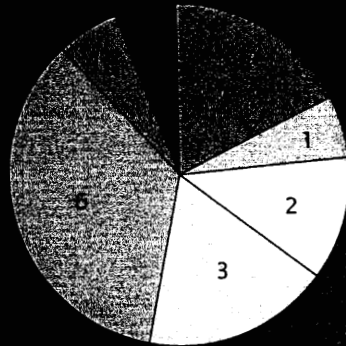


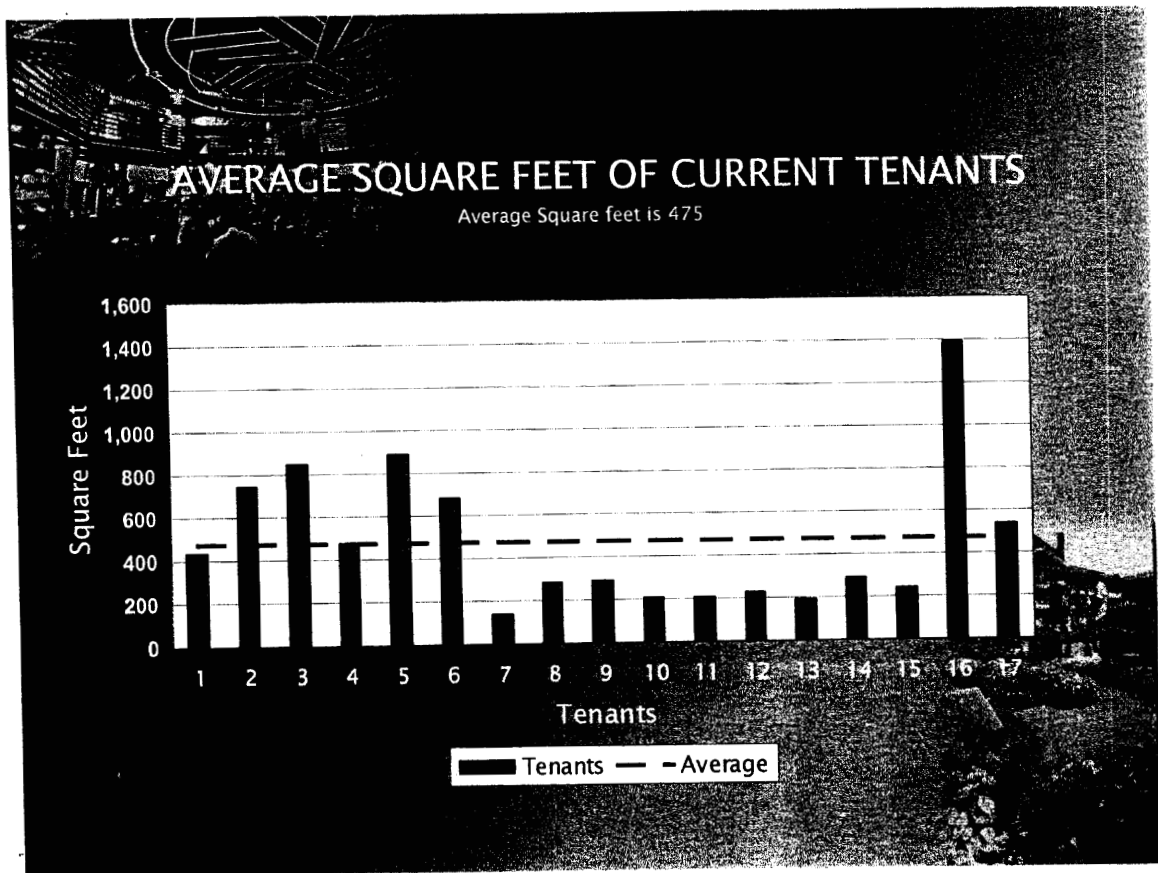
## DELINQUENT RENT





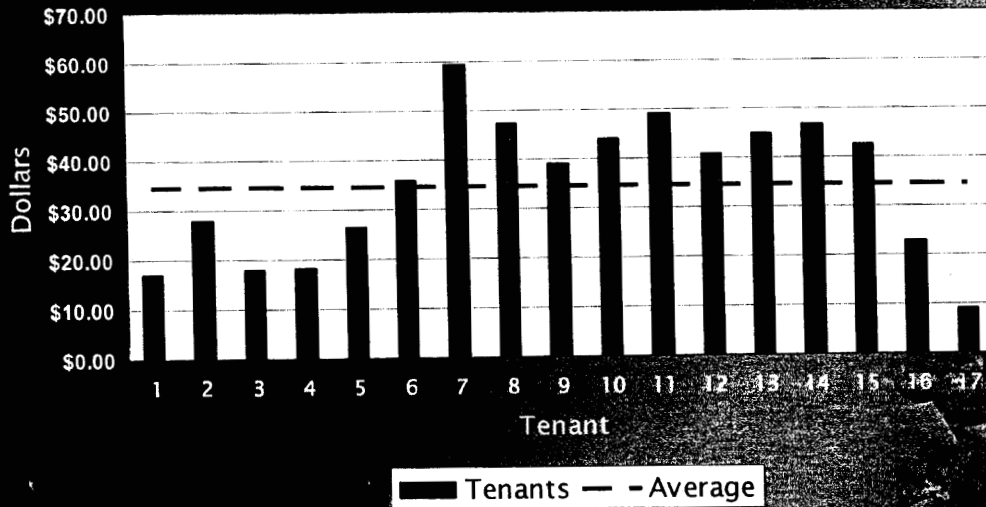
## LEASE EXPIRATIONS BY YEAR

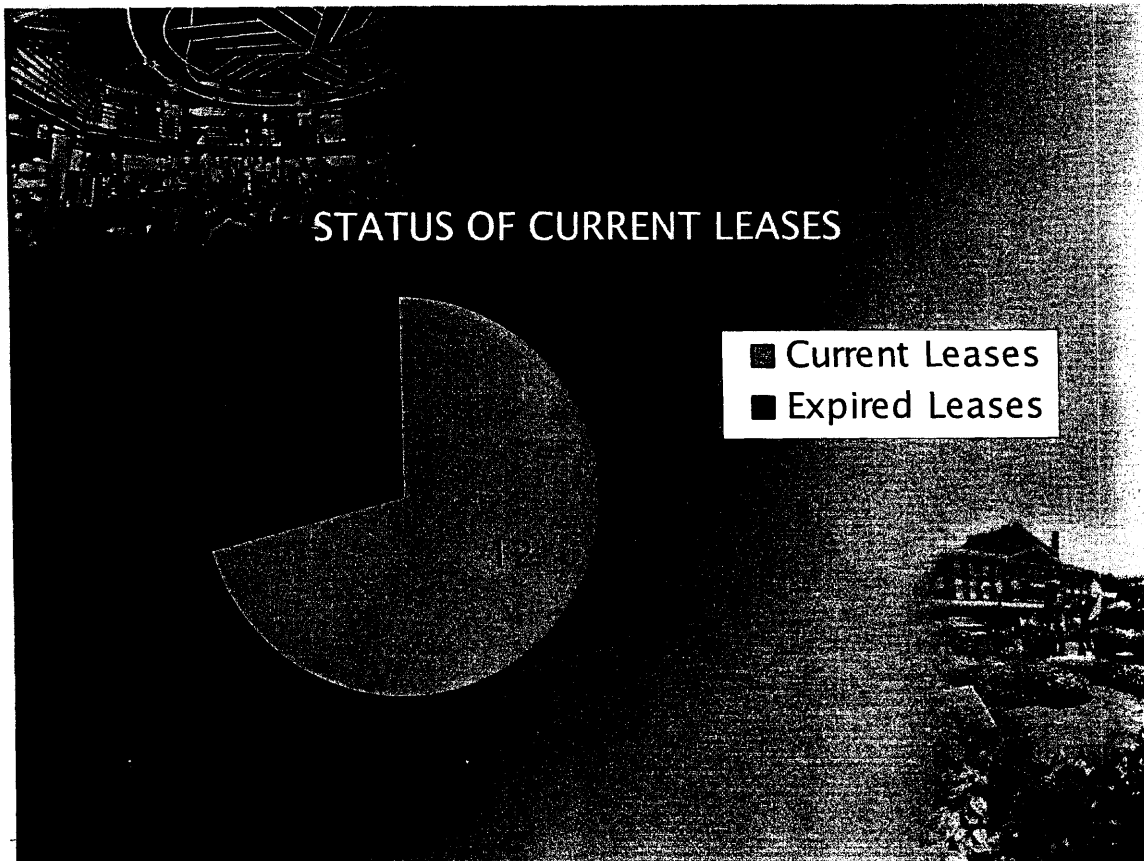




## AVERAGE BASE RENT PER SQUARE FOOT

Average Base Rent is \$34.72





He advised that a standard lease document will be prepared in a simplified format with provisions that address lease rate and term, exclusivity clause, Common Area Maintenance Fee, late fees, holdover terms and default of lease.

Mr. Townsend reviewed a chart demonstrating revenues versus expenses from April 2004 to April 2005, showing average monthly revenue at \$20,276.00 and average monthly expenses at \$29,101.00. He advised that the Economic Development Department will work with the Purchasing Department to utilize established master contracts and place new vendors on City contracts; maintenance issues include the HVAC maintenance contract, reviewing maintenance needs and evaluating new approaches to day-to-day maintenance needs, and the Department of Economic Development will serve as liaison for operational issues. He noted that future investment requirements for the City Market Building include an upcoming roof replacement project and identification and prioritization of additional capital improvements which are subject to the upcoming Market area study.

## CENTRAL ROANOKE MOBILITY STUDY (I-581/220 CORRIDOR) OVERVIEW:

TRAFFIC-STATE HIGHWAYS: Kenneth H. King, Jr., Transportation Division Manager; Paul Anderson, representing Hayes, Seay, Mattern and Mattern; and Michael Gray, representing the Virginia Department of Transportation, participated in the briefing.

Mr. Anderson presented the following summary study scope:

Hayes, Seay, Mattern and Mattern has contracted with VDOT to provide a transportation planning needs study within the I-581/220 Corridor from north of the Orange Avenue Interchange to south of the Wonju Street Interchange, based on short-term, mid-term and long-term conditions, and to develop solutions that are compatible with local community goals, environmentally sound, economically feasible and with minimized adverse impacts upon the community. Engineering and Planning staff from the City of Roanoke will be heavily involved and will serve on the Study Steering Committee.

The scope of work shall generally consist of the following:

Examine existing (2004) multi-model transportation inventory and travel data for the delineated study, including collection of necessary data not provided.

Update and expand the City of Roanoke Synchro Traffic Model to include current traffic volumes.

Access travel deficiencies in the Corridor based on accident analysis and capacity analysis (i.e. Level of Service.)

Determine anticipated changes in land use for the mid-term (2015) and long-term (2025) phases; impacts upon the transportation network; multi-model operational improvements needed (short-term only); capital-intensive roadway improvements needed; community, study network and environmental impacts; impacts upon other modes; and planning level cost.)

Estimates and prioritization of needs (each by phase).

Prepare study recommendation graphics.

Include community input throughout the study process.

Coordinate with DOT and City of Roanoke officials.

Make presentations to stakeholders, City Council members and citizens.

Publish a report and technical documents.

Hayes, Seay, Mattern and Mattern will be teamed with Michael Baker, Jr., Inc., to provide travel modeling, forecasting and engineering support. John Lambert and Associates will assist with public and media relations and public involvement. One of the early study tasks will be contacting stakeholders to invite their participation throughout the study and to solicit their initial thoughts about the current facility and their suggestions for areas that the study should address.

The total budget for the study is approximately \$300,000.00. The study will build on and draw from earlier studies, but will be focused on developing workable improvement concepts. It will not produce design documents, but should help in setting budgets and priorities for design projects that are a likely outgrowth of the study recommendations.

The study kickoff meeting was held on April 19. The study is expected to be completed in late summer of 2006. Stakeholder interviews will begin in mid May. An initial briefing of Council has been tentatively scheduled for June 6 and the first stakeholder meeting will be held on June 8.

A generalized project schedule is as follows:

Hold kick-off meeting – April 2005

Obtain base mapping/photography – May, 2005

Collect supplemental traffic data – May/June 2005

Hold first stakeholder meeting – June 2005

Update Synchro traffic model – June/July 2005

Develop short term improvement options – July–October, 2005  
Forecast future traffic using tp+travel demand model – July – Sept, 2005  
Hold initial citizen involvement meeting – September 2005  
Develop improvement options in September – November, 2005  
Hold Council briefing – November 2005  
Hold second stakeholder meeting – November 2005  
Refine and screen improvement options – December 2005 – February 2006  
Prepare budgetary construction cost estimate – January – March 2006  
Prepare and distribute draft report – March – June 2006  
Hold final citizen information meeting – June 2006  
Prepare and distribute final report – July – August, 2006

Mr. Gray advised that VDOT has participated with the City from the beginning, the project will enhance ingress and egress to downtown Roanoke and the multi-faceted study will allow VDOT to program funds.

Mr. King advised that the goal of the study is to develop interim, short term and long term improvements and to improve access to the Riverside Center, and Council will receive another briefing at mid point in the study process.

#### Space assignment– Municipal North:

MUNICIPAL BUILDING–HOUSING/AUTHORITY: The City Manager advised that when assigning space in Municipal North, first priority was given to those City functions that are currently housed in leased locations off site from the Municipal Building. She state that in view of a recent communication from Ben J. Fink, Chair, Roanoke Redevelopment and Housing Authority (RRHA), with regard to an interest by the Housing Authority to relocate its administrative offices to Municipal North, it is appropriate to brief the Members of Council on the proposed allocation of space in Municipal North. She added that the RRHA has agreed to engage the services of Hayes, Seay, Mattern and Mattern to prepare a space analysis report, and City staff recently met with John R. Baker, Executive Director, and Earl B. Reynolds, Jr., Deputy Executive Director, RRHA, to review two options for space allocation in Municipal North.

(See building diagrams on file in the City Clerk's Office.)

As a part of the discussion, the City Manager advised that the Housing Authority has requested 15,000 square feet of office space, and construction costs would be borne by the City of Roanoke, with a goal of keeping costs at approximately \$35.00 per square foot.

Council Member Wishneff inquired if the project could be done as a Commonwealth of Virginia Historic Tax Credit Project; what is the status of the study by the Commonwealth of Virginia that includes certain occupants of the Commonwealth Building and how will the building be used in the future; when will the Carilion Biomedical Institute move from the downtown location; does the City have a theoretical commitment in connection with the RNDC building; and what is the status of discussions with the School Board regarding relocation of school administrative offices to downtown Roanoke.

The City Manager advised that the School Board has requested that a Council/School Board retreat be scheduled in early fall at a time following the School Board's retreat.

Following discussion of the matter, the City Manager was requested to submit a recommendation whereupon, she requested the concurrence of Council to ask the Roanoke Redevelopment and Housing Authority to occupy space on the third floor of Municipal North to be shared with the Department of Housing and Neighborhood Services, with the balance of space to be located on the first floor of the building; and that the Campbell Avenue entrance will not be opened to the public initially, with the understanding that the option will be open for future discussion.

Inasmuch as no objection was expressed by the Council, the City Manager advised that City staff would proceed as above referenced to allocate space in Municipal North to the Roanoke Redevelopment and Housing Authority and Hayes, Seay, Mattern and Mattern would continue to work on a space analysis study.

FLOOD REDUCTION/CONTROL-COUNCIL: In the interest of time, the City Manager advised that the briefing on the Upkeep of the Roanoke River would be postponed until the regular meeting of Council on Monday, June 20, 2005.

At 11:45 a.m., the Mayor declared the Council meeting in recess to be immediately reconvened in Closed Session in the Council's Conference Room, Room 451, Noel C. Taylor Municipal Building.

At 2:00 p.m., on Monday, June 6, 2005, the Council meeting reconvened in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor C. Nelson Harris presiding.



PRESENT: Vice-Mayor Beverly T. Fitzpatrick, Jr., and Council Members Brenda L. McDaniel, Brian J. Wishneff (arrived late), M. Rupert Cutler, Alfred T. Dowe, Jr., and Mayor C. Nelson Harris-----6.

ABSENT: Council Member Sherman P. Lea-----1.

The Mayor declared the existence of a quorum.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

The invocation was delivered by Mayor C. Nelson Harris.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Harris.

#### PRESENTATIONS AND ACKNOWLEDGEMENTS:

ACTS OF ACKNOWLEDGEMENT: On June 30, 2005, following more than 24 years of service to the City of Roanoke, George C. Snead, Jr., Assistant City Manager for Operations, will retire; whereupon, Council Member Cutler offered the following resolution:

(#37069-060605) A RESOLUTION paying tribute to George Carpenter "Chip" Snead, Assistant City Manager for Operations for the City of Roanoke, and expressing to him the appreciation of this City and its people for his exemplary public service.

(For full text of resolution, see Resolution Book 69, Page 413.)

Council Member Cutler moved the adoption of Resolution No. 37069-060605. The motion was seconded by Council Member Dowe and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

The Mayor and Members of Council commended Mr. Snead for his service to the citizens of the City of Roanoke and advised that a reception would be held in his honor at 4:00 p.m., on Monday, June 6, 2005, at the Jefferson Center.

The Mayor presented a crystal star to Mrs. Snead.

Mr. Snead advised that public service is a special calling; the City of Roanoke is a unique community, and he encouraged elected and administrative officials to build on Roanoke's strengths in order to maintain its uniqueness. He expressed appreciation for the opportunity to be a part of the City of Roanoke's service to its citizens.

#### CONSENT AGENDA

The Mayor advised that all matters listed under the Consent Agenda were considered to be routine by the Members of Council and would be enacted by one motion in the form, or forms, listed on the Consent Agenda, and if discussion was desired, the item would be removed from the Consent Agenda and considered separately.

MINUTES: Minutes of the regular meeting of Council held on Monday, April 18, 2005, and recessed until Thursday, April 28, 2005, were before the body.

Vice-Mayor Fitzpatrick moved that the reading of the minutes be dispensed with and that the minutes be approved as recorded. The motion was seconded by Council Member Dowe and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

AIRPORT-CITY COUNCIL: A communication from the City Manager requesting that Council schedule a public hearing for Monday, June 20, 2005, at 7:00 p.m., or as soon thereafter as the matter may be heard, with regard to proposed conveyance of property rights to the Roanoke Regional Airport Commission, was before the body.

Vice-Mayor Fitzpatrick moved that Council concur in the request. The motion was seconded by Council Member Dowe and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

AUDIT COMMITTEE: Minutes of a meeting of the Audit Committee which was held on Monday, May 2, 2005, were before the body.

Vice-Mayor Fitzpatrick moved that the minutes be received and filed. The motion was seconded by Council Member Dowe and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

LIBRARIES: A communication from Samuel G. Oakey, III, tendering his resignation as a member of the Roanoke Public Library Board, was before Council.

Vice-Mayor Fitzpatrick moved that the resignation be accepted and that the communication be received and filed. The motion was seconded by Council Member Dowe and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

COMMITTEES--COMMUNITY PLANNING--YOUTH--FIFTH PLANNING DISTRICT  
COMMISSION--WATER RESOURCES: A report of qualification of the following  
persons was before Council:

The Honorable M. Rupert Cutler as a member of the Roanoke Valley  
Area Metropolitan Planning Organization for a term ending June 30,  
2008; and as a member of the Roanoke Valley Allegheny Regional  
Commission for a term ending June 30, 2008;

Robert H. Logan, III, as a member of the Roanoke Valley Allegheny  
Regional Commission, to fill the unexpired term of Jennifer L.  
Pfister, resigned, ending June 30, 2006;

Aaron Ewert, Sherman P. Lea, Jr., and Antwan Lawton as members  
of the Youth Services Citizen Board, for terms ending May 31,  
2008; and

John B. Williamson, III, as a member of the Board of Directors,  
Western Virginia Water Authority, to fill the unexpired term of  
George W. Logan, resigned, ending March 1, 2008.

Vice-Mayor Fitzpatrick moved that the report of qualification be received  
and filed. The motion was seconded by Council Member Dowe and adopted by  
the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff,  
Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

## REGULAR AGENDA

### PUBLIC HEARINGS:

BUDGET--HUMAN DEVELOPMENT: Pursuant to instructions by the Council,  
the City Clerk having advertised a public hearing for Monday, June 6, 2005, at  
2:00 p.m., or as soon thereafter as the matter may be heard, on a proposal to  
adjust the Fiscal Year 2004--2005 General Fund budget, in connection with  
appropriation of funds for Social Service/Human Service programs, the matter  
was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, May 27, 2005.

The City Manager submitted a communication advising that the Department of Social Services experienced an increase in demand for the following services over the past year: Fuel Assistance, Auxiliary Grant, Refugee Resettlement, Foster Care, Adoption, Day Care and Food Stamp; certain of the programs are mandated by the State; additional Federal and State funding was allocated by the State with only Fuel Assistance and Day Care requiring local funds; the agency also experienced an increase in operating expenditures, partly due to under-projecting costs relative to occupancy of a new facility; and additional funds for operating costs provided by the State also requires a local match.

It was further advised that the Comprehensive Services Act (CSA), which was established in 1993, provides for out-of-home services to troubled and at-risk youth and their families through a collaborative system of State and local agencies, parents and private sector providers; services include mandated foster care, certain special education services and foster care prevention; and CSA also provides services to certain targeted non-mandated populations.

It was explained that the City of Roanoke will receive additional funding for Fuel Assistance, Auxiliary Grant, Refugee Resettlement, Foster Care, Adoption, Day Care and Food Stamp programs for fiscal year 2005 in the amount of \$1,927,010.00; Auxiliary Grant and Day Care programs totaled \$810,000.00 which included a required match of \$80,169.00; \$10,000.00 of the required local funds will be provided from the Emergency Relief program which is 100 per cent local funds; additional funds for operating expenditures totaled \$49,000.00; \$24,771.00 will be reimbursed by the State with a \$24,229.00 local match; and the number of citizens requiring assistance and the cost of providing services continues to increase.

It was further explained that CSA expenditures are projected at \$10,650,000.00 for fiscal year 2005; expenditures exceed the CSA fiscal year 2005 appropriation of \$9,011,779.00 by \$1,638,221.00 and require appropriation of additional local funds in the amount of \$503,261.00; additional funds are intended to cover mandated services for at-risk youth; and CSA has experienced an increase in the number of youths requiring higher cost services.

The City Manager recommended that Council increase General Fund revenue estimates by \$1,871,612.00, transfer \$104,398.00, appropriate \$1,976,010.00 for Social Services, increase General Fund revenue estimates by \$1,134,960.00, transfer \$503,261.00, and appropriate \$1,638,221.00 for the Comprehensive Services Act.

Council Member Cutler offered the following budget ordinance:

(#37070-060605) AN ORDINANCE to appropriate funding for the Department of Social Services and Comprehensive Services Act, amending and reordaining certain sections of the 2004-2005 General Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 69, Page 414.)

Council Member Cutler moved the adoption of Ordinance No. 37070-060605. The motion was seconded by Vice-Mayor Fitzpatrick.

The Mayor inquired if there were persons in attendance who would like to speak in connection with the public hearing. There being none, he declared the public hearing closed.

There being no questions or comments by Council Members, Ordinance No. 37070-060605 was adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe, and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

PETITIONS AND COMMUNICATIONS: NONE.

REPORTS OF OFFICERS:

CITY MANAGER:

ITEMS RECOMMENDED FOR ACTION:

BUDGET-DISABILITY SERVICES BOARD: The City Manager submitted a communication advising that the Fifth Planning District Commission Disability Services Board (DSB) is responsible to local governments and serves as a critical resource for needs assessment, information sharing and service opportunities for citizens with disabilities, their families and the community; the following jurisdictions in the Fifth Planning District have enacted resolutions establishing participation in a regional effort and appointed a local official to serve: the Cities of Roanoke, Salem, and Covington; the Counties of Roanoke, Craig, Botetourt, and Alleghany and the Towns of Clifton Forge and Vinton; other members of the DSB include representatives from business and consumers; and the City of Roanoke serves as fiscal agent for the Fifth Planning District Disabilities Services Board.

It was further advised that the State Department of Rehabilitative Services has allocated funds in the amount of \$14,800.00 for a one-year period to continue local staff support for administration of the Fifth District DSB.

The City Manager recommended that she be authorized to enter into a contract with existing DSB staff support to continue the provision of local administrative support; and that \$14,800.00 be appropriated to a Grant Fund account to be established by the Director of Finance and that a corresponding revenue estimate be established in the Grant Fund.

Council Member McDaniel offered the following budget ordinance:

(#37071-060605) AN ORDINANCE to appropriate funds for the Fifth District Disability Service Board Grant, amending and reordaining certain sections of the 2004-2005 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 69, Page 416.)

Council Member McDaniel moved the adoption of Ordinance No. 37071-060605. The motion was seconded by Vice-Mayor Fitzpatrick and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

Vice-Mayor Fitzpatrick offered the following resolution:

(#37072-060605) A RESOLUTION authorizing the City Manager to enter into a contract with the Fifth Planning District Commission Disability Services Board ("DSB") staff to provide continuing local administrative staff support, upon certain terms and conditions.

(For full text of resolution, see Resolution Book No. 69, Page 417.)

Vice-Mayor Fitzpatrick moved the adoption of Resolution No. 37072-060605. The motion was seconded by Council Member Dowe and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

BUDGET-HUMAN DEVELOPMENT: The City Manager submitted a communication advising that the Human Services Advisory Board budget in the amount of \$561,982.00 was established by Council with adoption of the General Fund budget for fiscal year 2005-06; requests from 40 agencies totaling \$1,002,302.00 were received; Advisory Board members studied each application prior to allocation meetings which were held on March 23 and March 30, 2005; and agencies were notified of tentative allocations and advised that they could appeal the recommendations of the committee.

It was further advised that appeals of Advisory Board recommendations, as provided by policy, were received after notification to each agency of the tentative recommended allocation; appeals were filed and heard on April 13, 2005 from the following agencies: Roanoke Valley CASA, Brain Injury Services of Southwest Virginia, Adult Care Center, Inner City Athletic Association, and Blue Ridge Independent Living Center; after hearing the appeals, \$5,000.00 was allocated to the Inner City Athletic Association and the funds will be transferred from the City Manager's Contingency budget, for a total available budget of \$566,982.00; no other adjustments were made to recommended allocations; and performance audits will be conducted by the Council of Community Services to evaluate the effectiveness and efficiency of all funded programs.



The City Manager recommended that she be authorized to execute the required contracts; that Council transfer \$5,000.00 from the City Manager's Contingency, Account No. 001-300-9410-2199, to the Human Services Advisory Board, Account No. 001-630-5220-3700; and that Council transfer \$566,982.00 from the Human Services Advisory Board, Account No. 001-630-5220-3700, to new line items to be established in the Human Services Advisory Board budget by the Director of Finance.

Council Member Dowe offered the following budget ordinance:

(#37073-060605) AN ORDINANCE to appropriate funding to the Human Services Committee, amending and reordaining certain sections of the 2005-2006 General Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 69, Page 418.)

Council Member Dowe moved the adoption of Ordinance No. 37073-060605. The motion was seconded by Council Member Cutler and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

Council Member Dowe offered the following resolution:

(#37074-060605) A RESOLUTION concurring in the recommendations of the Human Services Advisory Board ("Board") for allocation of City funds to various nonprofit agencies and performance audits for Fiscal Year 2005-2006; authorizing the City Manager or her designee to execute any required contracts with the qualified agencies for provision of services, and to execute a contract with the Council of Community Services to perform the necessary audits to evaluate the effectiveness and efficiency of all funded programs.

(For full text of resolution, see Resolution Book No. 69, Page 420.)

Council Member Dowe moved the adoption of Resolution No. 37074-060605. The motion was seconded by Council Member McDaniel and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

**BUDGET-ROANOKE ARTS COMMISSION:** The City Manager submitted a communication advising that the Roanoke Arts Commission Agency Funding Advisory Committee budget, in the amount of \$335,512.00, was established by Council with adoption of the General Fund budget for fiscal year 2005-06; the total represents an increase in funding of \$6,580.00, or two per cent for the Committee as recommended to Council in February 2005; requests from 18 agencies, totaling \$570,747.00 were received; committee members studied each application prior to the allocation meeting which was held on March 21, 2005; agencies were notified of tentative allocations and advised that they could appeal the recommendations; and one appeal was filed by the Virginia Museum of Transportation; however, no changes were recommended by the Committee.

The City Manager recommended that Council transfer \$335,512.00 from the Roanoke Arts Commission Agency Funding Advisory Committee, Account No. 001-310-5221-3700, to new line items to be established by the Director of Finance within the Roanoke Arts Commission budget.

Council Member Dowe offered the following budget ordinance:

(#37075-060605) AN ORDINANCE to appropriate funding to the Human Services Committee, amending and reordaining certain sections of the 2005-2006 General Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 69, Page 421.)

Council Member Dowe moved the adoption of Ordinance No. 37075-060605. The motion was seconded by Vice-Mayor Fitzpatrick.

In the future, Council Member Wishneff suggested that recommendations of the Roanoke Arts Commission Agency Funding Committee be reviewed at the Council's budget study work sessions which will allow more opportunity for discussion and input by Council Members.

Council Member Cutler advised that Council delegated the Roanoke Arts Commission with the responsibility of reviewing and submitting recommendations with regard to funding allocations for certain cultural service organizations. He stated that he was not enthusiastic about the prospect of Council involving itself in the annual list of funding allocations recommended by the Arts Commission and suggested that Mr. Wishneff engage in a personal discussion with the Chair of the Arts Commission, or attend a meeting of the Arts Commission.

Ordinance No. 37075-060605 was adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

BUDGET-ROANOKE CIVIC CENTER: The City Manager submitted a communication advising that Rosser International, Inc., was selected to perform design services for the proposed expansion of the Civic Center facilities; Phase II expansion will provide for a new exhibit hall, truck marshalling area and other associated improvements to the existing facility; the original agreement with Rosser International, in the amount of \$815,000.00, has been amended on six occasions, bringing the current total contract amount to \$1,008,515.36; the initial agreement with Rosser International provided only design services and did not include bidding and construction phase services; and proposed Amendment No. 7 will provide for services required to support construction activities, provide for special inspections, reports required by the building code, and miscellaneous design services.

It was further advised that City staff has negotiated an agreement with Rosser International to provide the services at a fee of \$322,806.00; total consultant fees for the project are appropriate for the value of the construction contract; since the amount exceeds 25 per cent of the original contract amount, approval by Council is required; and funds are available in Civic Center Expansion/Renovation Phase II, Account No. 005-550-8616, for the contract amendment.

The City Manager recommended that she be authorized to execute Amendment No. 7, in the amount of \$322,806.00, with Rosser International, Inc., for the above referenced additional work.

Council Member Dowe offered the following resolution:

(#37076-060605) A RESOLUTION authorizing the City Manager's issuance and execution of Amendment No. 7 to the City's contract with Rosser International, Inc., for additional professional services during the construction phase of the Roanoke Civic Center Expansion and Renovation Project – Phase II Improvements.

(For full text of resolution, see Resolution Book No. 69, Page 422.)

Council Member Dowe moved the adoption of Resolution No. 37076-060605. The motion was seconded by Vice-Mayor Fitzpatrick.

Council Member Dowe requested a briefing on the status of the Civic Center expansion project; whereupon, the City Manager advised that there have been no major changes in the project; however, a Council briefing would be scheduled at a future Council meeting.

Council Member Wishneff advised that in hind sight, it would have been preferable to use the tax increase at the Civic Center to fund one year of debt service and to use remaining debt service to fund operations, which would build trust within the community. Secondly, in view of the large sum of money involved, he inquired if the work was rebid.

The City Manager responded that this is the original contract with Rosser International, the full amount of the contract was not appropriated and appropriations occur at different stages in the contract. She stated that the request currently before the Council addresses architectural and engineering services which are not in any greater amount than were originally anticipated as the full amount for architectural and engineering services.

Resolution No. 37076-060605 was adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

BUDGET-COMMONWEALTH'S ATTORNEY-STATE COMPENSATION BOARD:  
The City Manager submitted a communication transmitting a request of the Commonwealth's Attorney for acceptance of reallocated funds from the Compensation Board.

The Commonwealth's Attorney advised that the Compensation Board has made funds available to be allocated toward contractual obligations for certain Commonwealth's Attorneys who have indicated that funds were needed; the Compensation Board approved a request for four desktop computers, eight laptop computers, ten printers, one shredder, one copier and one fax machine, and allocated funds, in the amount of \$26,818.00, toward purchase of the equipment; a local match of \$3,782.00 will be required, for a total of \$30,600.00; the local match will be provided from the Forfeited Criminal Assets account; and acceptance of the funds makes sound financial sense for both the Office of the Commonwealth's Attorney and the City of Roanoke.

The Commonwealth's Attorney recommended that Council accept funds from the Compensation Board, in the amount of \$26,818.00, from funds re-appropriated by the Governor to be used for equipment for the Office of Commonwealth's Attorney; that Council adopt an ordinance to establish a revenue estimate in the amount of \$26,818.00, transfer \$3,732.00 from Forfeited Criminal Assets, Account No. 035-150-5140-2030, and appropriate \$30,600.00 to expenditure accounts to be established in the Grant Fund by the Director of Finance.

The City Manager recommended that Council concur in the recommendation of the Commonwealth's Attorney and that Council accept funds from the Compensation Board Technology Trust Fund.

Vice-Mayor Fitzpatrick offered the following budget ordinance:

(#37077-060605) AN ORDINANCE to appropriate funding from the Compensation Board for equipment replacement for the Commonwealth's Attorney, amending and reordaining certain sections of the 2004-2005 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 69, Page 423.)

Vice-Mayor Fitzpatrick moved the adoption of Ordinance No. 37077-060605. The motion was seconded by Council Member Dowe and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

**BUDGET-WATER RESOURCES-STREETS AND ALLEYS:** The City Manager submitted a communication advising that during creation of the Western Virginia Water Authority (WVWA), the City of Roanoke agreed to assist the WVWA with repair of utility cuts by including repair cuts as part of the City's annual paving contract; the WVWA agreed to reimburse the City for all costs associated with the work; assistance provided the WVWA with additional time to properly plan, solicit, and contract for services; the WVWA now holds contracts for the work and will contract the repairs without the City's assistance in the future; the Water Authority will issue payment to the City in the amount of \$273,380.35 for reimbursement of utility cut repair work performed under the City's recently completed paving program; and the adopted revenue estimate for the service was \$87,000.00 which will result in revenue of \$186,380.00 above the original estimate.

It was further advised that the current revenue estimate for State funding of street maintenance is \$9,726,000.00; however, State adjustments in street maintenance payments resulted in an increase of \$109,000.00, bringing the revised estimate to \$9,835,000.00.

The City Manager recommended that Council adopt an ordinance to increase the revenue estimates for street maintenance by \$295,380.00 in response to a \$186,380.00 increase in revenue from the Western Virginia Water Authority, and a \$109,000.00 increase in revenue from the State for street maintenance; and appropriate said funds to Transportation Division Street Paving, Account No. 001-530-4120-2010.

Council Member Dowe offered the following budget ordinance:

(#37078-060605) AN ORDINANCE to appropriate funding for Street Paving, amending and reordaining certain sections of the 2004-2005 General Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 69, Page 424.)

Council Member Dowe moved the adoption of Ordinance No. 37078-060605. The motion was seconded by Vice-Mayor Fitzpatrick.

The City Manager was requested to explain the relationship between the City of Roanoke and the Western Virginia Water Authority relative to the above referenced recommendation; whereupon, she responded that the Western Virginia Water Authority previously contracted with the City to perform street improvements, therefore, City revenues will be increased in order to accept payment from the Water Authority; and in the future, the Water Authority plans to handle a great deal of the work. In summary, she stated that the Western Virginia Water Authority has contracted with both the City of Roanoke and the County of Roanoke for certain services, whether they be technology, or payroll, or financial services, and the item under consideration is another service or activity that the Water Authority contracted with the City as the entity prepared to take on its full responsibilities.

Ordinance No. 37078-060605 was adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

BUDGET-YOUTH: The City Manager submitted a communication advising that the City of Roanoke Outreach Detention/Electronic Monitoring Program provides court-ordered, pre-dispositional, intensive supervision of juveniles living within the community; program services are provided to juveniles who reside in the City of Roanoke and other jurisdictions such as Roanoke County, Botetourt, City of Salem, Craig County, and Alleghany County; each outside jurisdiction pays for services provided; the fiscal year 2004-2005 revenue estimate for Outreach Detention/Electronic Monitoring Services is \$35,000.00; and it is anticipated that actual revenue will exceed the estimate in the amount of \$16,000.00.

It was further advised that in accordance with State mandates, all program revenue must be used for services that are specifically outlined in the Board approved VJCCCA plan; and excess revenue must be appropriated for program activities.

The City Manager recommended that Council adopt an ordinance to increase the General Fund revenue estimate by \$16,000.00 in Account No. 001-110-1234-1310 and appropriate \$16,000.00 to the following accounts:

|   |             |
|---|-------------|
| 001-631-3330-1004 Temporary Wages         | \$11,800.00 |
| 001-631-3330-2021 Cell Phone              | \$ 2,135.00 |
| 001-631-3330-2030 Administrative Supplies | \$ 1,265.00 |
| 001-631-3330-2066 Program Activities      | \$ 500.00   |
| 001-631-3330-2111 Drug Tests              | \$ 300.00   |

Vice-Mayor Fitzpatrick offered the following budget ordinance:

(#37079-060605) AN ORDINANCE to appropriate funding for the Outreach Detention/Electronic Monitoring Program, amending and reordaining certain sections of the 2004-2005 General Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 69, Page 425.)

Vice-Mayor Fitzpatrick moved the adoption of Ordinance No. 37079-060605. The motion was seconded by Council Member Dowe and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

**BUDGET-RAIL SERVICE:** The City Manager submitted a communication advising that Johnstown America Corporation previously announced establishment of operations in the former Norfolk Southern East End Shops to produce railroad freight cars; subsequent to the announcement, FreightCar Roanoke, Inc., was created to conduct the Roanoke operations; and FreightCar Roanoke, Inc., is an affiliate company of Johnstown America Corporation.



It was further advised that as a condition of expansion, the City, on behalf of Johnstown America Corporation, requested a Governor's Opportunity Fund (GOF) grant of \$200,000.00; the Commonwealth of Virginia has awarded the \$200,000.00 GOF grant based on the City contributing an equal amount as match; the City's local match requirement will be an appropriation of \$200,000.00 to the Industrial Development Authority of the City of Roanoke, Virginia (IDA); the IDA will grant to FreightCar Roanoke, Inc., the GOF monies and \$135,000.00 of City match to assist with improvements and equipment, plus up to \$65,000.00 of City match in job training grants, (\$1,000.00 per City resident hired to work at a permanent, full-time position); FreightCar Roanoke, Inc., will create at least 400 jobs while investing at least \$5,545,000.00 in improvements and equipment by April 30, 2008; conditions that have been agreed to are set out in a Performance Agreement; the Performance Agreement for FreightCar Roanoke, Inc., requires pay back of the GOF monies and part of the City's match if FreightCar does not complete its obligations; and funding for the \$200,000.00 match from the City is available in the Economic and Community Development Reserve in the Capital Projects Fund.

The City Manager recommended that she be authorized to enter into a Performance Agreement with FreightCar Roanoke, Inc., and the Industrial Development Authority of the City of Roanoke, Virginia, the form of such Performance Agreement to be approved by the City Attorney; that the City Manager be further authorized to take such actions and to execute such documents as necessary to implement and administer the Performance Agreement, including a request for, and acceptance of GOF monies above referenced; that Council adopt a budget ordinance establishing a revenue estimate of \$200,000.00 in the Capital Projects Fund for funding from the GOF, appropriate \$200,000.00 in matching funds from the City's Economic and Community Development Reserve, and appropriate a total of \$400,000.00 to an expenditure account to be established by the Director of Finance in the Capital Projects Fund entitled, "FreightCar Roanoke Development Project".

Vice-Mayor Fitzpatrick offered the following budget ordinance:

(#37080-060605) AN ORDINANCE to appropriate Governor's Opportunity and local match funding for the FreightCar Roanoke Development Project, amending and reordaining certain sections of the 2004-2005 Capital Projects Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 69, Page 425.)

Vice-Mayor Fitzpatrick moved the adoption of Ordinance No. 37080-060605. The motion was seconded by Council Member Cutler and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

Vice-Mayor Fitzpatrick offered the following ordinance:

(#37081-060605) AN ORDINANCE authorizing the proper City officials to execute a Performance Agreement among the City of Roanoke (City), the Industrial Development Authority of the City of Roanoke, Virginia (IDA), and FreightCar Roanoke, Inc. (FCR), that provides for certain undertakings by the parties in connection with certain investments and job creation by FCR and/or its affiliates to take place in the City of Roanoke at the former Norfolk Southern East End Shops; authorizing the proper City officials to obtain and accept a grant or donation from the Governor's Opportunity Fund (GOF) in an amount up to \$200,000.00 to be used for an IDA grant to FCR; to provide for the appropriation of up to \$200,000.00 by the City to the IDA for grants to FCR for the purposes of economic development, as further set forth below; and dispensing with the second reading by title of this Ordinance.

(For full text of ordinance, see Ordinance Book No. 69, Page 426.)

Vice-Mayor Fitzpatrick moved the adoption of Ordinance No. 37081-060605. The motion was seconded by Council Member McDaniel and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

ECONOMIC DEVELOPMENT-HOUSING/AUTHORITY: The City Manager submitted a communication advising that Ordinance No. 36927-122004 adopted by Council on December 20, 2004, authorized execution of an Agreement between the City of Roanoke and Colonial Green, L.C. for development of Colonial Green, and the conveyance in phases of approximately 23 acres of City property on Colonial Avenue in exchange for development and creation of a mixed density traditional neighborhood design and layout consistent with the City's Vision 2001-2020 Comprehensive Plan, among other things, upon certain terms and conditions as set forth in the Agreement.

It was further advised that subsequent to execution of the Agreement, and as an outcome of the rezoning process, minor changes were required to the phasing plan and development pattern book that was incorporated by reference as exhibits in the original development Agreement; with the changes, such items are now inconsistent with references contained in the original Agreement, therefore, the Agreement needs to be amended in order to be consistent with the outcomes of the rezoning process; also included in the amendment are clarifications to the phasing and subdivision process for implementation of the project; and the changes have no substantive impact on the overall intent and outcomes anticipated by the development Agreement.

The City Manager recommended that she be authorized to execute an amended development Agreement on behalf of the City of Roanoke, to be approved as to form by the City Attorney.

Council Member Dowe offered the following ordinance:

(#37082-060605) AN ORDINANCE authorizing the City Manager to execute an Amended Agreement for the Development of Colonial Green, to be entered into by the City and Colonial Green, L.C., the developer, which provides for conveyance, in phases, of approximately 23 acres of property on Colonial Avenue in exchange for certain proposed development activities, in order to conform an Agreement heretofore entered into on December 27, 2004, to certain changes made in the development plan during the conditional rezoning process; and dispensing with the second reading of this ordinance by title.

(For full text of ordinance, see Ordinance Book No. 69, Page 428.)

Council Member Dowe moved the adoption of Ordinance No. 37082-060605. The motion was seconded by Vice-Mayor Fitzpatrick and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

CITY ATTORNEY:

POLICE DEPARTMENT-NUISANCES-COMMONWEALTH'S ATTORNEY-CITY CODE: The City Attorney submitted a written report advising that during the last Session, the General Assembly amended (effective July 1, 2005), §15.2-1812.2, Code of Virginia, which is the enabling legislation for §21-25 of the City Code, pertaining to willful damage to or defacement of public or private facilities (the City's graffiti ordinance); amendments to the State Code eliminate the previous requirement that damage to private property be less than \$1,000.00 for the ordinance to apply, and imposes a mandatory minimum fine of \$500.00 for certain types of graffiti; and the amendment also simplifies and reduces the time requirements for giving notice to private property owners before the City can undertake cleaning or covering graffiti.

The City Attorney transmitted an ordinance to amend §21-25 of the City Code to conform with §15.2-1812.2 of the State Code.

Vice-Mayor Fitzpatrick offered the following ordinance:

(#37083-060605) AN ORDINANCE amending §21-25, Willful damage or defacement of public or private facilities, Article 1, In General, Chapter 21, Offenses - Miscellaneous, of the Code of the City of Roanoke (1979), as amended, by the amendment of §21-25 in order to conform it to §15.2-1812.2 of the State Code, by imposing a mandatory minimum fine for certain types of graffiti, and reducing certain time requirements for notices; providing for an effective date; and dispensing with the second reading by title paragraph of this ordinance.

(For full text of ordinance, see Ordinance Book No. 69, Page 429.)

Vice-Mayor Fitzpatrick moved the adoption of Ordinance No. 37083-060605. The motion was seconded by Council Member Dowe.

The City Manager was requested to respond to the prevalence of graffiti in the City of Roanoke; whereupon, she advised that the extent of graffiti is not known because to this point, enforcement of the current ordinance has been on a complaint basis. She stated that provisions of the current ordinance allow for longer periods of time in which to respond, particularly on the part of the property owner, and the proposed ordinance will allow the City to proceed more expeditiously. She called attention to a small allocation of funds in the City's annual budget for removal of graffiti; and on a complaint basis, the City has aggressively pursued the issue during the past several years, although no actual numbers are available. She stated that graffiti is offensive on any facility and, if allowed to remain, encourages more instances; therefore, it is important to remove graffiti as quickly as possible. She asked that the general public take note that the City of Roanoke enforces the elimination of graffiti and asked that any complaints regarding violations be reported to the City for investigation.

Ordinance No. 37083-060605 was adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

CITY CODE: The City Attorney submitted a written report advising that since 1982, Council has reenacted and recodified the City Code on an annual basis in order to properly incorporate in the Code amendments made by the General Assembly at the previous Session to State statutes that are incorporated by reference in the City Code; and the procedure ensures that the ordinances codified in Roanoke's Code incorporate the most recent amendments to State law.

It was further advised that incorporation by reference is frequently utilized in local codes to preclude having to set out lengthy provisions of State statutes in their entirety; in addition, the technique ensures that local ordinances are always consistent with State law as is generally required; and the procedure whereby a local governing body incorporates State statutes by reference after action of the General Assembly has been approved by the Attorney General.

The City Attorney recommended that Council adopt an ordinance to readopt and reenact the Code of the City of Roanoke (1979); if an ordinance is not adopted, City Code sections incorporating provisions of the State Code amended at the last Session of the General Assembly may not be deemed to include the recent amendments and may be impermissibly inconsistent which could result in the dismissal of criminal prosecutions under the City Code sections.

Council Member Cutler offered the following ordinance:

(#37084-060605) AN ORDINANCE to readopt and reenact the Code of the City of Roanoke (1979),as amended; and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 69, Page 432.)

Council Member Cutler moved the adoption of Ordinance No. 37084-060605. The motion was seconded by Council Member McDaniel and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

HOUSING/AUTHORITY-COMMUNITY PLANNING-GRANTS: The City Attorney submitted a written report advising that on May 2, 2005, Council approved certain amendments to the 2000-2005 Consolidated Plan; the resolution that was adopted did not fully conform with the City Manager's recommendations; specifically, the City Manager requested that Council redesignate \$700,000.00 in Community Development Block Grant (CDBG) and HOME Investment Partnership funds to the Roanoke Redevelopment and Housing Authority, and \$200,000.00 of CDBG funds for other designated housing activities in the 2005-2006 period; however, as adopted, Resolution No. 37032-050205, among other things, redesignated the entire \$900,000.00 to the Housing Authority.

It was further advised that in order to follow the recommendations of the City Manager, a new resolution has been prepared which repeals Resolution No. 37032-050205, and implements the City Manager's recommendations under date of May 2, 2005.

Council Member Dowe offered the following resolution:

(#37085-060605) A RESOLUTION authorizing the appropriate City officials to execute an amendment to the Consolidated Plan for FY 2000-2005, providing for the redesignation of certain Community Development Block Grant and HOME Investment Partnerships funds, upon certain terms and conditions; and repealing Resolution No. 37032-050205, adopted on May 2, 2005.

(For full text of resolution, see Resolution Book No. 69, Page 433.)

Council Member Dowe moved the adoption of Resolution No. 37085-060605. The motion was seconded by Vice-Mayor Fitzpatrick and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

#### DIRECTOR OF FINANCE:

AUDITS/FINANCIAL REPORTS: The Director of Finance submitted the Financial Report for the month of April 2005.

(For full text, see Financial Report on file in the City Clerk's Office.)

The Director of Finance advised that on a year to date basis, for the first ten months of the year, the City's revenues grew approximately seven per cent in the General Fund, real estate has increased by about eight per cent, growth has been experienced in the personal property tax for the first time in three years, the meals tax has trended with about a four per cent growth, the hotel/room tax is flat compared to last year, the business license tax has experienced a three per cent growth, and the sales tax has flattened out with growth at less than one per cent for this year. He stated that overall, the budget is on track.

There being no discussion and without objection by Council, the Mayor advised that the Financial Report for the month of April would be received and filed.

REPORTS OF COMMITTEES: NONE.

UNFINISHED BUSINESS: NONE.

INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS: NONE.

MOTIONS AND MISCELLANEOUS BUSINESS:

INQUIRIES AND/OR COMMENTS BY THE MAYOR AND MEMBERS OF COUNCIL:

ACTS OF ACKNOWLEDGEMENT: Council Member Dowe congratulated organizers of Roanoke's Festival in the Park, 2005 Young Heroes, Women's Leadership Awards, and Roanoke Branch NAACP Citizen of the Year.

HEARING OF CITIZENS UPON PUBLIC MATTERS: The Mayor advised that Council sets this time as a priority for citizens to be heard and matters requiring referral to the City Manager will be referred immediately for response, recommendation or report to Council.

CITY MARKET-LEASES: Kelly Crovo, City Market Building tenant, submitted the following inquiries: Will the City Market study include the entire downtown area? What are the City's plans with regard to attracting more businesses to downtown Roanoke? Why is the new art museum project in downtown Roanoke moving forward prior to completion of the City Market study? He raised questions with regard to the amount of time it has taken to draft a standard lease with a non-compete clause for City Market Building tenants.

With regard to previous statements about extending operating hours/Sunday hours for the City Market Building, Mr. Crovo advised that the majority of persons who patronize downtown Roanoke after hours prefer to visit restaurants that serve alcoholic beverages in addition to food items, and it would be difficult to obtain an alcoholic beverage license for businesses located inside the City Market Building due to the fact that alcohol cannot be contained once it leaves a specific counter space; and no business owner would be in favor of extending operating hours if they cannot generate a profit.



CITY MARKET-LEASES: Anita Wilson, President of the City Market Building Tenants Association, advised that the Tenants Association would like to work with the City toward reaching a uniform lease agreement that would be fair to those persons who have supported the City Market Building in the past. She stated that she has refused to sign the new lease for space in the City Market Building which was proposed by the former management company because the lease would require that she be charged twice the highest based rent, plus a certain percentage.

ACTS OF ACKNOWLEDGEMENT-CITY EMPLOYEES: Marion Vaughn-Howard spoke as a City employee and as a citizen of the City of Roanoke, and expressed appreciation to Council for the City Employee Student Tuition Reimbursement Program. As a recent graduate of Mary Baldwin College, she presented a Certificate of Appreciation to the Mayor and Members of Council for the City's assistance through the Tuition Reimbursement Program.

COMPLAINTS-ECONOMIC DEVELOPMENT: Robert Gravely, 729 29th Street, N. W., spoke with regard to the need to provide more jobs and better paying jobs for the citizens of Roanoke, the need to reinvent downtown Roanoke in order to bring growth to the City, and the need for demolition of older buildings in downtown Roanoke to make room for new buildings which will enable the City of Roanoke to be marketed at state and national levels.

CITY MANAGER COMMENTS: NONE.

At 3:10 p.m., the Mayor declared the Council meeting in recess for one Closed Session in the Council's Conference Room.

At 3:50 p.m., the Council meeting reconvened in the City Council Chamber, with all Members of the Council in attendance, Mayor Harris presiding.

COUNCIL: With respect to the Closed Meeting just concluded, Council Member Cutler moved that each Member of City Council certify to the best of his or her knowledge that: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act; and (2) only such public business matters as were identified in any motion by which any Closed Meeting was convened were heard, discussed or considered by City Council. The motion was seconded by Council Member McDaniel and adopted by the following vote:

AYES: Vice-Mayor Fitzpatrick and Council Members McDaniel, Wishneff, Cutler, Dowe and Mayor Harris-----6.

NAYS: None-----0.

(Council Member Lea was absent.)

There being no further business, the Mayor declared the Council meeting adjourned at 3:52 p.m.

A P P R O V E D

ATTEST:

Mary F. Parker  
City Clerk

C. Nelson Harris  
Mayor

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**C. NELSON HARRIS**  
Mayor

**CITY OF ROANOKE**  
**OFFICE OF THE MAYOR**

215 CHURCH AVENUE, S.W., ROOM 452  
ROANOKE, VIRGINIA 24011-1594  
TELEPHONE: (540) 853-2444  
FAX: (540) 853-1145

July 18, 2005

The Honorable Vice-Mayor and Members  
of the Roanoke City Council  
Roanoke, Virginia

Dear Members of Council:

This is to request a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended.

Sincerely,

A handwritten signature in black ink that reads "C. Nelson Harris". The signature is written in a cursive, flowing style.

C. Nelson Harris  
Mayor

CNH:snh

**MINUTES OF ROANOKE CITY AUDIT COMMITTEE****June 20, 2005****1. CALL TO ORDER:**

The meeting of the Roanoke City Audit Committee was called to order at 12:50 p.m. on Monday, June 20, 2005, with Chair, Dr. M. Rupert Cutler, presiding.

- **The roll was called by Mrs. England**

**Audit Committee**

**Members Present:** Dr. M. Rupert Cutler, Chair  
Vice-Mayor Beverly T. Fitzpatrick, Jr.  
Sherman P. Lea (arrived late)  
Brenda L. McDaniel  
Brian J. Wishneff (arrived late)

**Audit Committee**

**Members Absent:** Mayor C. Nelson Harris  
Alfred T. Dowe, Jr.

**Others Present:**

Drew Harmon, Municipal Auditor  
Darlene L. Burcham, City Manager  
William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
Mike Tuck, Assistant Municipal Auditor  
Pamela Mosdell, Information Systems Auditor  
Brian Garber, Senior Auditor  
Cheryl Ramsey, Auditor  
Doris England, Administrative Assistant  
R. Timothy Conner, KPMG  
Peter J. Ragone, II, KPMG

**2. INTERNAL AUDIT REPORTS:**

- A. Police Property Room
- B. Street Lighting

Dr. Cutler ordered that internal audits A and B be received and filed. There were no objections to the order. Dr. Cutler recognized Mr. Harmon for comments on each of the audits beginning with the Police Property Room.

Mr. Harmon stated the conclusion of the Police Property Room audit was that controls could be strengthened. Although there was a fairly good system in place, it was determined that some things were not being done as specified. When dealing with property that may be used in court, there must be an extensive system of controls. Several items of concern were as follows:

- Random drug testing – the Drug Evidence Officer had only been tested once in 20 years. She was tested again just after the audit.
- Property room access – too many employees had been given access to the room over time. Access should be limited and based upon job responsibilities.
- Computer access – some employees were assigned access rights that were incompatible with their job duties.
- Transfers of property to the courts – the form for transfers was not being used as intended in tracking property.
- Property Room Clerk's day-to-day activities were not documented – turnover occurred in this position during the audit, and it became obvious how frustrating and difficult it was for the new person to assume the duties involved.

Chairman Cutler asked the City Manager what the Police Chief had done in response to the findings of the audit. Ms. Burcham stated that changes were made as the findings were identified. The form had already been updated to properly track property between the property room and the courthouse. The other findings had also been addressed with one exception, the random drug testing. Ms. Burcham stated this is a city-wide policy, and she would seek consultation from the City Attorney's office as to how that policy could be revamped and still meet the requirements of the law. Chairman Cutler asked Ms. Burcham to explain a little about these requirements. Ms. Burcham stated that there are limits as to what groups can be tested regularly. Public Safety employees and those employees working under OSHA requirements, operating heavy-duty equipment, can be tested regularly. The city has implemented a policy that employees being promoted also must be drug tested.

Chairman Cutler asked the City Attorney for his comments on the random drug testing. Mr. Hackworth stated that Ms. Burcham had listed the categories that the city could subject to periodic, as opposed to sporadic, drug testing. He said he would look at the issue to determine if the testing could be broadened. Chairman Cutler asked Mr. Hackworth to respond back to City Council with a summary of what the opportunities and constraints are in regard to this policy.

Chairman Cutler asked Mr. Harmon to proceed to Item B on the agenda, the Street Lighting audit report. Mr. Harmon stated that Municipal Auditing could not conclude on the accuracy of the invoices received from AEP for street lighting because neither the city nor AEP have sufficient records to do so. Municipal Auditing reviewed invoices and met with AEP to gather an understanding of the history of the billings. Mr. Harmon stated he felt the bills were accurate within a reasonable degree. Roanoke is within the normal range when compared with other localities' street lighting. Mr. Harmon said there were two other benefits from this audit. The audit sparked conversations within the Transportation department and between the city and AEP. The Auditing department, as well as Ken King and his staff, learned more about street lighting. Secondly, Mr. Harmon stated, it changed his perspective regarding street lighting. Street lighting can contribute to light pollution just as

an overly light parking lot can. The main goal of street lighting is to improve street safety, and street reflectors can also be used to aid in achieving that goal. Mr. Harmon stated the audit was productive and had a good response.

Chairman Cutler asked Ms. Burcham to comment on the Street Lighting audit. Ms. Burcham stated the audit brought forward a helpful conversation, as Mr. Harmon had noted. She explained the city gets many more requests for street lights each year than it approves, and all aspects of those requests must be managed. The city is changing out the wattage of some lights to minimize additional street lights and give greater illumination. Ms. Burcham stated the city is testing some different lights in the downtown area now. She suggested that Council members look at Campbell Avenue. Also, the city is testing a seasonal lighting in the 200 block of Church Avenue that Council may want to view. Ms. Burcham noted the audit brought up a good point, which is also referred to in the city's comprehensive plan, regarding light pollution.

Chairman Cutler asked Ms. Burcham if the city's zoning ordinance that addresses lighting at places such as gas stations also addresses street lights. Ms. Burcham said she did not know and would check to find out. Ms. Burcham stated that the city's first public hearing on the zoning ordinance was scheduled for July 29, 2005.

Mr. Wishneff asked if the city had conducted an energy audit on the overall energy usage in buildings, etc. Mr. Harmon replied that he knew General Services had looked at the issue. Ms. Burcham stated that General Services, in its adopted budget for July 1, 2005, had reduced its budget for electricity with the intent of doing some energy saving activities. She stated there had been several conversations with the City Attorney's office and the Finance Director's office about contracting with an energy management firm to come in, make improvements, and be repaid through the savings achieved. Unfortunately, the legal and financial interpretation of this approach is that type of arrangement would have to be accommodated under the city's debt policy. It would be considered indebtedness even though funding the improvements would come from the operating budget. Mr. Wishneff said he knew of some companies that would do this and had recently spoken with someone from Chevron. Mr. Hall stated he would suggest the city allocate some capital replacement funding to hire an energy consultant on its own. If contracting with an energy company, the city would be paying lease arrangements, and the energy company would set up an elaborate measurement of energy savings that may not be as objective.

Mr. Wishneff asked if there was anything the city was doing to buy automobiles that are not 100 percent gasoline-powered. Ms. Burcham replied that she and the mayor had traveled to Alexandria in a hybrid vehicle about a month ago, and the trip went very well. The city has one car as a pilot vehicle, which will be used in six-week intervals in different operations within the city, for a year. Mr. Wishneff asked about larger vehicles, such as big trucks and machinery. Mr.

Fitzpatrick replied there was not a market for that as yet; however, there is a market for biodiesel, which is being used in buses.

Chairman Cutler asked if there were any further questions regarding the two internal audit reports. There were none.

**3. UNFINISHED BUSINESS:**

There was no unfinished business to come before the committee.

**4. NEW BUSINESS:**

**A. Municipal Auditing 2006 Annual Plan**

Mr. Harmon suggested that item number five in the agenda be moved forward in the interest of having enough time to cover the presentation by KPMG and using whatever time left for discussion of the audit plan. Mr. Wishneff asked if the performance and financial audits in the plan were audits done every year. Mr. Harmon replied that the financial audits were done every year, and the performance audits were cycle audits, planned over a 10-year history. Mr. Harmon stated that if there was not enough time to fully explain the audit plan, he would be glad to go over it in person with any of the committee members.

**5. OTHER BUSINESS:**

**A. KPMG External Audit – Fiscal Year 2005 – Audit Committee Planning Meeting**

Chairman Cutler recognized Mr. Harmon for the next item before the committee. Mr. Harmon introduced Tim Conner, Partner with KPMG in Roanoke who oversees the external auditing at the city, and Pete Ragone, Senior Manager who does most of the onsite management of that work. Mr. Harmon stated this meeting was required by the Virginia Auditor of Public Accounts. The state requires the city's external auditors speak to the Audit Committee regarding the scope, the nature, the controls and compliance work performed in the audit. Chairman Cutler then recognized Mr. Conner for his comments. Mr. Conner went over the planning meeting handout, beginning with the agenda and the listed members of the engagement team. He stated one member of the team, Deidre Carter, left a week ago, so her duties would be split between Jeremy Weaver and Brad Osborne. Mr. Conner then went over the entities subject to audit and reporting; those being the City of Roanoke, the Roanoke City School Board, the Greater Roanoke Transit Company (GRTC) and Transit Retirement Plan, and the City's Pension Plan. He then turned the presentation over to Mr. Ragone who went over the engagement timetable. Mr. Ragone stated that GRTC was not included on the timetable, and it actually has an accelerated timetable. KPMG will be at GRTC in August for final work with a report due on September 15, 2005. Final reports on all entities are due by November 1, 2005. Mr. Ragone then went over the audit approach and significant audit areas. Chairman Cutler asked if KPMG were involved with the

offices of the Commissioner of the Revenue and Treasurer. Mr. Ragone replied that his staff does test work in these offices and are aware and take into account everything that Municipal Auditing has done. Mr. Ragone stated he believed what Municipal Auditing did was more of a performance audit, and what KPMG does is more of a financial presentation and material statement to make sure what is collected is being reported.

Mr. Ragone pointed out the transfers of the Water Fund and the Water Pollution Control Fund to the Western Virginia Water Authority as of July 1, 2004. Chairman Cutler asked how transfers of assets such as land are handled. Mr. Ragone replied that a value must be assigned. The value that goes off the books at the city may not be what goes on the books at the Water Authority. The historical value assigned will be what comes off the books at the city. Chairman Cutler asked if there were a number value of the land that the city owns. Mr. Harmon stated there was a number value, but it is based on historical value versus market value.

Mr. Ragone continued with page seven of the presentation, which indicated the anticipated programs to be tested would be Child Nutrition, Special Education, Food Stamps, and Child Care Services. Other matters to be considered are the School Board Budgetary Issues, Child Care Funding Issues, and the Commissioner of the Revenue – Municipal Audit Department Findings.

Chairman Cutler asked if the Audit Committee could meet with the KPMG representatives without city staff present, perhaps about midway through the auditing process. He further stated that if anything looked amiss, KPMG should feel free to ask for a meeting and one would be scheduled. Mr. Conner stated that was fine, and if a situation arose prior to completion of the audit, KPMG would contact Dr. Cutler to determine if a meeting should be set up. He said it is common practice to have a separate executive session with the external auditors, whether with private or public clients.

Chairman Cutler asked if there were any questions from the members of the committee. There were none.

Mr. Wishneff asked for information regarding the Advantage 3 Post Implementation audit listed on the annual audit plan. Mr. Harmon explained that Advantage 3 is the new financial system that goes into effect on July 5, 2005. The Auditing staff will look at the testing after it is implemented and report back to the Audit Committee. Mr. Wishneff then asked what the Contract Management audit was. Mr. Harmon stated that contract management is a citywide issue examining how the contracts, such as custodial, mowing, etc., are managed and if the city is getting what it contracted for. Mr. Wishneff asked what the audit on drug testing would entail. Mr. Harmon stated that drug and nicotine testing is required of certain employees, and this audit will determine if those requirements are being met. Mr. Wishneff asked about the Economic Development audit, and Mr. Harmon responded that this is a performance audit and will take an overview of the budget, goals and



objectives, and performance measures within that department. Municipal Auditing will select an area that would appear to be most crucial to examine and report back to the committee what it finds. Ms. McDaniel asked if the Purchasing Card audit was done last year, and Mr. Harmon stated that typically the Purchasing Card audit is done annually since its inception in 2002. This year, much has changed and Purchasing has more responsibility, so Auditing will be looking at those controls.

Chairman Cutler asked Mr. Harmon to tell the committee about the inservice training his staff will be doing in the city in respect to ethics. Mr. Harmon stated that if a person wants to steal or break rules, he or she will. He feels the best that Auditing can do is to educate employees, explain what internal control is and why it is important. Mr. Harmon said his staff will be publishing some guidelines for managers and also speaking to employee groups, if requested, on the importance of internal controls, not only for that department, but for others as well. Ms. Burcham stated that there was a new manager orientation program with the goal to help new managers coming into the job, whether from an internal promotion or outside city employment, to gain an understanding of how to operate within our administrative structure. She also stated that she had asked department heads to mentor the new people so the new managers will have someone they feel comfortable about asking questions of. Ms. Burcham said that Mr. Harmon's staff will be doing the orientation on auditing, and Mr. Hall's staff will do the finance portion. Other departments within the organization will be included.

Chairman Cutler asked if there were any further business for the committee. Mr. Wishneff asked Mr. Harmon what to do if a committee member wanted to suggest adding an area to be audited. Mr. Harmon replied that the member should contact the Chairman and ask to put the request on the agenda for the next Audit Committee meeting. At the meeting, it could be discussed and a vote taken on doing the audit.

#### 6. ADJOURNMENT:

There being no further business, the meeting was adjourned at 1:35 p.m.



M. Rupert Cutler, Chair



## CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building  
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July 18, 2005

Honorable C. Nelson Harris, Mayor  
Honorable Beverly T. Fitzpatrick, Jr., Vice Mayor  
Honorable M. Rupert Cutler, Council Member  
Honorable Alfred T. Dowe, Jr., Council Member  
Honorable Sherman P. Lea, Council Member  
Honorable Brenda L. McDaniel, Council Member  
Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of Council:

Subject: Request to Schedule a Public  
Hearing

### Background:

The United States of America General Services Administration (GSA) has leased space in the Commonwealth Building, 220 Church Avenue, S.W. since February 1986. The City proposes to enter into a new lease with GSA for 19,841 rentable square feet at the Commonwealth Building. The lease term requested is for a ten-year period ending on March 31, 2015. Estimated revenue for the ten-year lease agreement is \$2,392.845.00. A public hearing is required to consider this lease term.

### Recommended Action:

Authorize the scheduling and advertising of this matter for public hearing on your August 15, 2005 agenda.

Respectfully submitted,

A handwritten signature in black ink, reading "Darlene L. Burcham".  
Darlene L. Burcham  
City Manager

DLB:lpp

c: William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
Mary F. Parker, City Clerk



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July 18, 2005

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Honorable Alfred T. Dowe, Jr., Council Member  
Honorable Sherman P. Lea, Council Member  
Honorable Brenda L. McDaniel, Council Member  
Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of Council:

Subject: Request to Schedule a Public  
Hearing

Background:

The Carilion Biomedical Institute (CBI) has leased space at 111 to 117 Church Avenue, S.W. since September 2000. The City proposes to enter into a new lease with CBI for approximate 6,800 rentable square feet at Church Avenue. The lease term requested is for a one-year period ending on August 31, 2006. A public hearing is required to consider this lease term.

Recommended Action:

Authorize the scheduling and advertising of this matter for a public hearing on August 15, 2005.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Darlene Burcham".

Darlene L. Burcham  
City Manager

DLB:lpp

c: Mary F. Parker, City Clerk  
Jesse A. Hall, Director of Finance  
William M. Hackworth, City Attorney



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July 18, 2005

The Honorable Mayor and Members  
of City Council  
Roanoke, Virginia

Subject: Request for closed meeting

Dear Mayor Harris and Council Members:

This is to request that City Council convene a closed meeting to discuss the disposition of publicly-owned property, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to §2.2-3711.A.3, Code of Virginia (1950), as amended.

Sincerely,

A handwritten signature in cursive script, reading "Darlene Burcham".

Darlene L. Burcham  
City Manager

DLB/f

c: William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
Mary F. Parker, City Clerk



**C. NELSON HARRIS**  
Mayor

# **CITY OF ROANOKE**

## **CITY COUNCIL**

215 Church Avenue, S.W.  
Noel C. Taylor Municipal Building, Room 456  
Roanoke, Virginia 24011-1536  
Telephone: (540) 853-2541  
Fax: (540) 853-1145

**Council Members:**  
M. Rupert Cutler  
Alfred T. Dowe, Jr.  
Beverly T. Fitzpatrick, Jr.  
Sherman P. Lea  
Brenda L. McDaniel  
Brian J. Wishneff

July 18, 2005

The Honorable Mayor and Members  
of Roanoke City Council  
Roanoke, Virginia

Dear Mayor Harris and Members of Council:

At the regular meeting of City Council to be held on Monday, July 18, 2005, Ms. Suzanne Osborne would like to address Council with regard to the backflow prevention test which is required on existing residential underground lawn sprinkler systems.

Sincerely,

A handwritten signature in cursive script that reads "Sherman Lea".

Sherman P. Lea, Council Member

A handwritten signature in cursive script that reads "B. J. Wishneff".

Brian J. Wishneff, Council Member

SPL/BJW:snh

pc: Darlene L. Burcham, City Manager  
William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
Mary F. Parker, City Clerk



## **CITY OF ROANOKE OFFICE OF THE CITY MANAGER**

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July 18, 2005

Honorable C. Nelson Harris, Mayor  
Honorable, Beverly T. Fitzpatrick, Jr., Vice Mayor  
Honorable Dr. M. Rupert Cutler, Council Member  
Honorable Alfred T. Dowe, Jr., Council Member  
Honorable, Sherman P. Lea, Council Member  
Honorable Brenda L. McDaniel, Council Member  
Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject: Virginia Commission for  
the Arts - Local  
Government Challenge  
Grant

### **Background:**

Notification has been received from the Commonwealth of Virginia Commission for the Arts (Commission) that a \$5,000 Local Government Challenge Grant has been awarded to the City of Roanoke. Application for the grant was made at the request of the Arts Council of Roanoke Valley, Mill Mountain Theatre, Opera Roanoke, Roanoke Symphony Orchestra, Roanoke Ballet Theatre, Inc. and Young Audiences of Virginia.

### **Considerations:**

In order to receive these funds, the Commission must obtain written confirmation that local tax revenue dollars will be used to match or exceed the amount of the grant. For Fiscal Year 2005-06, the organizations listed previously will receive local funding, as recommended by the Roanoke Arts Commission and approved by City Council on June 6, 2005, in the amounts shown below:

|                                |          |
|--------------------------------|----------|
| • Arts Council of Blue Ridge   | \$14,880 |
| • Mill Mountain Theatre        | 13,830   |
| • Opera Roanoke                | 9,300    |
| • Roanoke Symphony Orchestra   | 29,500   |
| • Young Audiences of Virginia  | 4,665    |
| • Roanoke Ballet Theatre, Inc. | 6,380    |

The grant funds will be distributed to the six sponsoring agencies in the amount of approximately \$833 each.

Recommended Action(s):

Authorize the City Manager to execute the necessary documents that are required for acceptance of this grant. All documents shall be approved as to form by the City Attorney.

Adopt the accompanying budget ordinance to appropriate \$5,000 in state grant funds and establish a corresponding revenue estimate in accounts established by the Director of Finance in the Grant Fund entitled "Challenge Grant FY 06".

Respectfully submitted,

  
Darlene L. Burcham  
City Manager

DLB:vst

c: Mary F. Parker, City Clerk  
William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
Sherman M. Stovall, Director of Management & Budget

#CM05-00096

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to establish the Local Government Challenge Grant, amending and reordaining certain sections of the 2005-2006 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2005-2006 Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations

|                                |                   |        |
|--------------------------------|-------------------|--------|
| Arts Council Of The Blue Ridge | 035-410-8740-3737 | \$ 833 |
| Mill Mountain Theatre          | 035-410-8740-3749 | 833    |
| Opera Roanoke                  | 035-410-8740-3762 | 833    |
| Roanoke Symphony Orchestra     | 035-410-8740-3736 | 833    |
| Young Audiences of Virginia    | 035-410-8740-3802 | 834    |
| Roanoke Ballet Theatre, Inc.   | 035-410-8740-3779 | 834    |

Revenues

|                      |                   |       |
|----------------------|-------------------|-------|
| Challenge Grant FY06 | 035-410-8740-8740 | 5,000 |
|----------------------|-------------------|-------|

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



WMT  
IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION authorizing the acceptance of Local Government Challenge Grant No. 06-0322 from the Virginia Commission for the Arts, upon certain terms and conditions.

BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. The City of Roanoke accepts Local Government Challenge Grant Number 06-0322 from the Virginia Commission for the Arts in the amount of \$5,000.00, to be used for those purposes and under the terms and conditions as more particularly stated in the City Manager's letter to this Council dated July 18, 2005.
2. The City Manager is hereby authorized to execute any and all requisite documents as are required for the City's acceptance of this grant, upon form approved by the City Attorney, and to furnish such additional information as may be required in connection with the City's acceptance of this grant.

ATTEST:

City Clerk.



## **CITY OF ROANOKE OFFICE OF THE CITY MANAGER**

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July 18, 2005

Honorable C. Nelson Harris, Mayor  
Honorable Beverly T. Fitzpatrick, Jr., Vice Mayor  
Honorable M. Rupert Cutler, Council Member  
Honorable Alfred T. Dowe, Jr., Council Member  
Honorable Sherman P. Lea, Council Member  
Honorable Brenda McDaniel, Council Member  
Honorable Brian J. Wishneff, Council Member

Subject: Project Safe Neighborhoods  
Subgrant – No. WDVA-  
2004GPCX0580-009

Dear Mayor Harris and Members of Council:

### **Background:**

The City of Roanoke has been awarded grant funds in the amount of \$100,000 by the U. S. Department of Justice, through the Project Safe Neighborhoods grant program. This program is administered through the Virginia Association of Chiefs of Police (VACP).

These grant funds must be used by the Roanoke Police Department to address gun trafficking and juvenile gang crime. Specific plans for the funding include augmentation of neighborhood bicycle patrols and juvenile programs as well as the purchase of replacement police bicycles and replacement of several in-car digital video cameras.

### **Recommended Action:**

Accept the Project Safe Neighborhoods Grant of \$100,000 from the U. S. Department of Justice; and authorize the City Manager to execute the grant agreement and any related documents, subject to them being approved as to form by the City Attorney.

Honorable Mayor and Members of Council  
July 18, 2005  
Page 2

Adopt the accompanying budget ordinance which will appropriate funding of \$100,000 as outlined below in accounts to be established by the Director of Finance in the Grant Fund. The ordinance will also establish a revenue estimate of the same amount in the Grant Fund.

|                                |                 |
|--------------------------------|-----------------|
| Overtime                       | \$46,445        |
| FICA                           | \$ 3,555        |
| Expendable Equipment           | \$33,000        |
| Fees for Professional Services | \$16,000        |
| Administrative Supplies        | <u>\$ 1,000</u> |
| Total                          | \$100,000       |

Respectfully submitted,



Darlene L. Burcham  
City Manager

DLB:mds/gws

c: Mary F. Parker, City Clerk  
William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
Rolanda B. Russell, ACM for Community Development  
A. L. Gaskins, Chief of Police

CM05-00094

## IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate funding for the Project Safe Neighborhoods Grant, amending and reordaining certain sections of the 2005-2006 Grant Funds Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2005-2006 Grant Funds Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

|                                  |                   |           |
|----------------------------------|-------------------|-----------|
| Grant Fund                       |                   |           |
| Appropriations                   |                   |           |
| Overtime                         | 035-640-3558-1003 | \$ 46,445 |
| FICA                             | 035-640-3558-1120 | 3,555     |
| Professional Services            | 035-640-3558-2010 | 16,000    |
| Administrative Supplies          | 035-640-3558-2030 | 1,000     |
| Expendable Equipment             | 035-640-3558-2035 | 33,000    |
| Revenues                         |                   |           |
| Project Safe Neighborhoods Grant | 035-640-3558-3558 | 100,000   |

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

## IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION authorizing the acceptance of a Project Safe Neighborhoods Grant from the U.S. Department of Justice, and authorizing execution of any required documentation on behalf of the City.

BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. The City Manager is hereby authorized on behalf of the City to accept from the U.S. Department of Justice a Project Safe Neighborhoods Grant in the amount of \$100,000.00, with the City providing an additional \$100,000.00 in local matching funds. Such grant being more particularly described in the letter of the City Manager dated July 18, 2005.

2. The City Manager is hereby authorized to execute and file, on behalf of the City, any documents setting forth the conditions of the Project Safe Neighborhoods Grant, approved as to form by the City Attorney, required in connection with the acceptance of such grant and to furnish such additional information as may be required by the U.S. Department of Justice.

ATTEST:

City Clerk



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July 18, 2005

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Honorable Beverly T. Fitzpatrick, Jr., Vice Mayor  
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Honorable Alfred T. Dowe, Jr., Council Member  
Honorable Sherman P. Lea, Council Member  
Honorable Brenda L. McDaniel, Council Member  
Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject:     Appropriate Funding for  
              Facade Grants in  
              Enterprise Zone One A

### **Background:**

The City has two Enterprise Zones, One A and Two. Only Enterprise Zone One A, however, provides a facade grant incentive through the Industrial Development Authority of the City of Roanoke, Virginia. Projects refurbishing the exterior of a building facing a street are eligible for one third of the cost of the rehabilitation, up to a maximum of \$25,000 per project. In fiscal year 2005, \$103,240.21 was distributed in facade grants, resulting in almost \$1 million in improvements. All of the money in the account is expended on a yearly basis.


### **Considerations:**

According to the Enterprise Zone application, facade grants require a yearly appropriation of \$100,000.

Recommended Action:

Adopt the accompanying budget ordinance to appropriate funding in the amount of \$100,000 for facade grants from the Economic and Community Development Reserve to account 08-310-9736-9003 (Facade Grants).

Respectively submitted,



Darlene L. Burcham  
City Manager

DLB:lb

c: Mary F. Parker, City Clerk  
William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
R. Brian Townsend, Acting Director of Economic Development  
Sherman M. Stovall, Director of Management and Budget  
Harwell (Sam) M. Darby, Jr., Attorney, IDA

CM05-00097

## IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate funding from the Economic and Community Development Reserve for Facade Grants in the Enterprise Zone One A Project, amending and reordaining certain sections of the 2005-2006 Capital Projects Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2005-2006 Capital Projects Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

## Appropriations

|                                   |                   |            |
|-----------------------------------|-------------------|------------|
| Appropriated from General Revenue | 008-310-9736-9003 | \$ 100,000 |
|-----------------------------------|-------------------|------------|

## Fund Balance

|  |          |           |
|--|----------|-----------|
| Economic and Community Development Reserve -Unappropriated | 008-3325 | (100,000) |
|--|----------|-----------|

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.





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July 18, 2005

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Honorable Sherman P. Lea, Council Member  
Honorable Brenda L. McDaniel, Council Member  
Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject: Agreement Between  
Local Workforce  
Investment Area III and  
Virginia Employment  
Commission

### **Background:**

The City of Roanoke is the grant recipient for Workforce Investment Act (WIA) funding; thus, City Council must appropriate the funding for all grants and other monies received in order for the Western Virginia Workforce Development Board to administer WIA programs. The Western Virginia Workforce Development Board administers the federally funded Work force Investment Act (WIA) for Area 3, which encompasses the counties of Alleghany, Botetourt, Craig, Franklin, and Roanoke, and the cities of Covington, Roanoke, and Salem.

WIA funding is for four primary client populations:

- Dislocated workers who have been laid off from employment through no fault of their own;

- Economically disadvantaged individuals as determined by household income guidelines defined by the U.S. Department of Labor;
- Youth who are economically disadvantaged, or who have other barriers to becoming successfully employed adults; and
- Businesses in need of employment and job training services.

Considerations:

The Virginia Employment Commission (VEC) has submitted a WIA agreement for the City of Roanoke to continue to be the grant recipient for WIA Area 3, to be operated by the Western Virginia Workforce Development Board.

- Program Operations – Existing activities will continue, and planned program will be implemented.
- Funding – Funds will be available from the Grantor agency and other sources as indicated, at no additional cost to the City.

Recommendation:

Authorize the City Manager to execute the required Grant Agreement with the Virginia Employment Commission for Program Year 2006.

Respectfully submitted,



Darlene L. Burcham  
City Manager

c: Mary F. Parker, City Clerk  
William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
Sherman M. Stovall, Director of Management and Budget  
Jane R. Conlin, Director of Human/Social Services  
Rolanda B. Russell, Asst. City Manager for Community Development

#CM05-00095

JAC

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION authorizing the City Manager to execute the Grant Agreement with the Virginia Employment Commission for Program Year 2006 in order for the City to continue as the grant recipient of funding for the Workforce Investment Act for Area 3.

WHEREAS, the City of Roanoke is the grant recipient for Workforce Investment Act ("WIA") funding and City Council must appropriate funding for all grants and other monies received in order for the Western Virginia Workforce Development Board to administer WIA programs;

WHEREAS, the Western Virginia Workforce Development Board administers the federally funded Workforce Investment Act for Area 3, which encompasses the counties of Alleghany, Botetourt, Craig, Franklin, and Roanoke, and the cities of Covington, Roanoke, and Salem; and

WHEREAS, the Virginia Employment Commission is the recipient of such funding from the U. S. Department of Labor and has submitted a WIA agreement for the City of Roanoke to continue to be the grant recipient for WIA Area 3 for Program Year 2006, to be operated by the Western Virginia Workforce Development Board.

THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke that:

1. The City Manager and the City Clerk are hereby authorized on behalf of the City to execute and attest, respectively, the Grant Agreement with the Virginia Employment

Commission for Program Year 2006.

2. The form of said agreement, and any necessary amendments thereto, shall be approved by the City Attorney.

ATTEST:

City Clerk.



## **CITY OF ROANOKE OFFICE OF THE CITY MANAGER**

Noel C. Taylor Municipal Building  
215 Church Avenue, S.W., Room 364  
Roanoke, Virginia 24011-1591  
Telephone: (540) 853-2333  
Fax: (540) 853-1138  
CityWeb: [www.roanokegov.com](http://www.roanokegov.com)

July 18, 2005

Honorable C. Nelson Harris, Mayor  
Honorable Beverly T. Fitzpatrick, Jr., Vice Mayor  
Honorable M. Rupert Cutler, Council Member  
Honorable Alfred T. Dowe, Jr., Council Member  
Honorable Sherman P. Lea, Council Member  
Honorable Brenda L. McDaniel, Council Member  
Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject: 2005-2006 CDBG-funded  
Agreement with Kuumba  
Community Health &  
Wellness Center, Inc.

### **Background:**

Kuumba Community Health & Wellness Center, Inc. is a federally qualified community health center, whose mission is to increase access to affordable, high quality, comprehensive and preventive health care that is culturally sensitive for the citizens of Roanoke Valley. Kuumba Community Health & Wellness Center, Inc. was established in 1999, and the first clients were served in December 2000. Since that time, Kuumba has become known as one of just a few safety net providers of primary health care in the area. Kuumba leases the current facility site located at 3716 Melrose Avenue, NW, from William A. Hunton Branch YMCA. To allow for facility expansion and future staffing increases in order to serve more clients and to offer a broader array of health services, Kuumba applied for Community Development Block Grant (CDBG) funds to acquire the property at 3716 Melrose Avenue, N.W. They will begin a capital campaign to raise funding to construct a new facility on the same site.

On May 10, 2005, City Council authorized the Kuumba - New Facility by Resolution No. 37051-051005, which approved the Five Year Consolidated Plan for 2005-2010, including the Fiscal Year 2005-2006 One Year Action Plan, for submission to the U.S. Department of Housing and Urban Development (HUD). City Council appropriated \$125,000.00 of the 2005-2006 CDBG funds for the Kuumba - New Facility on June 20, 2005 by Budget Ordinance No. 37086-062005 and Resolution No. 37087-062005, pending receipt of the approval letter from HUD.

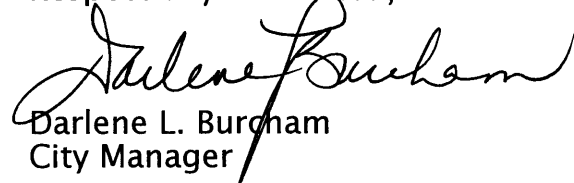
Consideration:

In order for Kuumba to proceed with the acquisition of the property located at 3716 Melrose Avenue, NW, City Council's authorization is needed to execute a subgrant agreement. CDBG funding is available in account 35-G06-0637-5475 and being provided to Kuumba to assist with the acquisition of, and costs associated with, the purchase of said property. It is anticipated that Kuumba will increase the number of low- to moderate income clients being served once the new facility has been constructed.

Recommendation:

Authorize the City Manager to execute the 2005-2006 CDBG subgrant Agreement with Kuumba Community Health & Wellness Center, Inc., similar in form and content to the draft agreement attached to this report, and approved as to form by the City Attorney.

Respectfully submitted,



Darlene L. Burcham  
City Manager

DLB:mtm

Attachment

c: William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
Mary F. Parker, City Clerk  
Sherman M. Stovall, Director of Management & Budget  
Frank E. Baratta, Budget Team Leader  
Meg T. Munton, Budget Analyst

CM05-00098

## AGREEMENT

This Agreement is made and entered into this \_\_\_\_ day of July, 2005, by and between the following parties:

|                |  |
|----------------|--|
| The Grantee    | City of Roanoke, Virginia<br>215 Church Avenue, S.W.<br>Roanoke, Virginia 24011                          |
| The Subgrantee | Kuumba Community Health &<br>Wellness Center, Inc.<br>3716 Melrose Avenue, NW<br>Roanoke, Virginia 24017 |

## WITNESSETH:

WHEREAS, by Resolution No. 37051-051005, adopted May 10, 2005, Roanoke City Council approved the Five Year Consolidated Plan for 2005-2010 which included the Fiscal Year 2005-2006 One Year Action Plan for the Community Development Block Grant (CDBG) program and, by Ordinance No. 37086-062005, appropriated funds therefore; and

WHEREAS, the Grantee has been authorized by its City Council pursuant to Resolution No. 37087-062005, adopted June 20, 2005, to provide One hundred twenty-five thousand and no/100 dollars (\$125,000.00) of Community Development Block Grant funds to Kuumba Community Health and Wellness Center, Inc. (Kuumba) toward acquisition costs of property located on Melrose Avenue, NW, Roanoke, Virginia; and

WHEREAS, the Subgrantee desires to purchase property and build a larger facility to better serve their clients; and

WHEREAS, by Resolution No. XXXXX-061805, adopted July 18, 2005, City Council authorized the City Manager to execute an agreement for the purposes specified herein.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. **SCOPE OF SERVICES:**

Kuumba is a federally qualified community health center, whose mission is to *increase access to affordable, high quality, comprehensive and preventive health care that is culturally sensitive for the citizens of the Roanoke Valley*. Kuumba was created to improve access to affordable health care for

residents of northwest Roanoke, Virginia. To allow for facility expansion and future staffing increases, in order to serve more clients and to offer a broader array of health services, funding is being provided to assist with the acquisition of property located at 3716 Melrose Avenue, NW, the current Kuumba facility site, which they lease from William A. Hunton Branch YMCA.

1 a. **Acquisition:**

CDBG funds are being provided to assist with the acquisition of, and costs associated with, the purchase of the property at the Melrose site as indicated in Paragraph 1 above.

1 b. **Stipulations:**

By June 2006, with at most two ninety-day extensions, each extension being at the sole discretion of the City, Kuumba must demonstrate to the satisfaction of the City that Kuumba has obtained firm commitments for no less than 75% of the necessary construction financing (including any debt that Kuumba is willing to take on) from sources other than the City. In the event this construction financing threshold is not met by such date, Kuumba will be required to sell the property and return the proceeds to the City of Roanoke.

2. **TIME OF PERFORMANCE:**

This agreement shall be for the period from July 1, 2005 through June 30, 2006, with at most two ninety-day extensions, each extension to be at the sole discretion of the City.

Should said acquisition be completed plus successful completion of obtaining construction financing commitments, Subgrantee shall be obligated to utilize the property located at 3716 Melrose Avenue, NW to benefit the low- and moderate income individuals by continuing the services such as provided by Kuumba until June 30, 2011.

3. **BUDGET:**

The purchase price for the property located at 3716 Melrose Avenue, NW, Roanoke, Virginia is estimated to be \$120,000.00. To assist with the acquisition of, and costs associated with, the purchase of the subject property, One hundred twenty-five thousand and no/100 dollars (\$125,000.00) in Community Development Block Grant (CDBG) funds is being provided.



The reimbursement will be in the form of a grant. No deed of trust or other encumbrance will be placed upon the property by the Grantee as a result of this agreement.

4. **CONSIDERATION SUBJECT TO FUNDING:**

All funding to be provided under this Agreement is contingent upon necessary appropriations by Congress and from the U. S. Department of Housing and Urban Development (HUD).

5. **REQUESTS FOR DISBURSEMENTS OF FUNDS:**

Request for payment is to be submitted to the Department of Management and Budget, accompanied by a draft attorney's settlement statement indicating the acquisition price for the property located at 3716 Melrose Avenue, NW, Roanoke, Virginia. Payment for the acquisition of property will be made to the Subgrantee based on the settlement statement within ten (10) working days from date of receipt, provided all compliance issues are met. An executed copy of the settlement statement shall be provided to the Department of Management and Budget upon the closing. Reimbursement for other costs associated with the acquisition of the property will be reviewed for eligibility on an individual basis. Request for reimbursement must be accompanied by copies of receipts and/or invoices for charges specific to the acquisition.

6. **SECTION 504**

The Subgrantee agrees to comply with any federal regulation issued pursuant to compliance with the Section 504 of the Rehabilitation act of 1973, as amended which prohibits discrimination against the disabled in any federal assisted program.

7. **INDEMNIFICATION:**

Subgrantee agrees and binds itself and its successors and assigns to indemnify, keep and hold the City and its officers, employees, agents, volunteers and representatives free and harmless from any liability on account of any injury or damage of any type to any person or property growing out of or directly or indirectly resulting from any act or omission of Subgrantee including: (a) Subgrantee use of the streets or sidewalks of the City or other public property; (b) the performance under this Agreement; (c) the exercise of any right or privilege granted by or under this Agreement; or (d) the failure, refusal or neglect of Subgrantee to perform any duty imposed upon or assumed by Subgrantee by or under this Agreement. In the event that any suit or

proceeding shall be brought against the City or any of its officers, employees, agents, volunteers or representatives at law or in equity, either independently or jointly with Subgrantee on account thereof, Subgrantee upon notice given to it by the City or any of its officers, employees, agents, volunteers or representatives, will pay all costs of defending the City or any of its officers, employees, agents, volunteers or representatives in any such action or other proceeding. In the event of any settlement or any final judgment being awarded against the City or any of its officers, employees, agents, volunteers or representatives, either independently or jointly with Subgrantee then Subgrantee will pay such settlement or judgment in full or will comply with such decree, pay all costs and expenses of whatsoever nature and hold the City or any of its officers, employees, agents, volunteers or representatives harmless therefrom.

8. **COMPLIANCE WITH FEDERAL REGULATIONS:**

The Subgrantee agrees to abide by the HUD conditions for CDBG programs as set forth in Attachment A and all other applicable federal regulations relating to specific programs performed hereunder.

9. **UNIFORM ADMINISTRATIVE REQUIREMENTS:**

The Subgrantee shall comply with the requirements and standards of OMB Circular No. A-110, Uniform Administrative Requirements; OMB and with Circular No. A-122, "Cost Principles for Non -Profit Organizations" or the related provision specified in 24 CFR 92.505 or 570.502.

10. **PROGRAM INCOME:**

Program income means gross income received by the Grantee or Subgrantee directly generated from the use of CDBG funds. Program income, if any, from sale of this property or other sources, shall be submitted to the City within five (5) days of its receipt by the Subgrantee. No program income is anticipated.

11. **RECORDS AND REPORTS:**

The Subgrantee agrees to submit quarterly, narrative reports indicating the status and progress of the capital fund development concerning the activities conducted under this Agreement. Reports will be due on October 15<sup>th</sup>, 2005; January 15<sup>th</sup>, 2006; April 15<sup>th</sup>, 2006, etc., for the full time of this agreement. Further, the following shall apply to financial and project records pertaining to this Agreement:

- a. Records to be maintained - At a minimum, the Subgrantee shall maintain financial and project documents and records to comply with the requirements of 24 CFR 570.506 and 570.507, as applicable.
- b. Period of record retention - The Subgrantee shall retain financial and project documents and records pertaining to this Agreement for a period of four (4) years in compliance with the requirements 24 CFR 570.502(b).
- c. Access to records - The Grantee and other entities shall have access to financial and project documents and records pertaining to this Agreement in compliance with the applicable requirements of 24 CFR 84.53.

12. CLIENT DATA:

The Subgrantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, documentation of income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to grantee or their designees for review upon request. Specific names of clients are not required to be submitted on reports to the Grantee.

13. CONFLICT OF INTEREST:

No employee, agent, consultant, officer or appointed official of the Subgrantee, who is in a position to participate in a decision-making process or gain inside information with regard to any CDBG activity, may obtain a personal or financial interest in any contract, subcontract or agreement with respect thereto, or in the proceeds thereunder, either for themselves, their family, or business associates, during their tenure or for one (1) year thereafter.

14. REVERSION OF ASSETS:

Upon expiration of this Agreement, or amendments thereto, the Subgrantee shall transfer to the Grantee any CDBG funds or program income on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds.

A condition of this Agreement, and an obligation of the Subgrantee, shall be to ensure that the subject property referenced in paragraph No.

1 shall be used to benefit low and moderate income persons, as defined by HUD, for a period of five (5) years after completion of this agreement as referenced in paragraph No. 2 or June 30, 2011, whichever is longer. If the property changes ownership during that time, the benefit to low and moderate income persons must be required and specified by deed restrictions. If the property is sold prior to June 30, 2011, and is not used to benefit low and moderate income persons, a pro rata share of the current fair market value of the property must be returned to the Grantee as prescribed in 24 DFR 570.503(b)(8)(ii).

15. **THIRD-PARTY CONTRACTS:**

The Grantee shall not be obligated or liable hereunder to any party other than the Subgrantee.

16. **INDEPENDENT CONTRACTOR:**

Services performed under this Agreement shall be performed on an independent contractor basis and under no circumstances shall this Agreement be construed as establishing an employee/employer relationship. The Subgrantee shall be completely responsible for its activities in performing services hereunder.

17. **FAITH-BASED ORGANIZATIONS**

Pursuant to §2.2-4343.1 of the Code of Virginia (1950), as amended, the City of Roanoke does not discriminate against faith-based organizations.

18. **EQUAL EMPLOYMENT OPPORTUNITY**

Non-Discrimination: During the performance of this Agreement, the Subgrantee agrees as follows:

- (a) The Subgrantee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Subgrantee. The Subgrantee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- (b) The Subgrantee, in all solicitations or advertisements for employees placed by or on behalf of the Subgrantee, will state that such Subgrantee is an equal opportunity employer.
- (c) Notices, advertisement and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- (d) The Subgrantee will include the provisions of the foregoing subsections (a), (b) and (c) in every contract or purchase order of over ten thousand dollars and no cents (\$10,000.00), so that the provisions will be binding upon each contractor or vendor.

19. **DRUG-FREE WORKPLACE**

The Subgrantee will: (i) provide a drug-free workplace for the Subgrantee's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Subgrantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Subgrantee that the Subgrantee maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over ten thousand dollars and no cents (\$10,000.00), so that the provisions will be binding upon each subcontractor or vendor. For the purpose of this subsection, "drug-free workplace" means a site for the performance of work done in connections with this agreement.

20. **ANTI-LOBBYING:**

To the best of the Subgrantee's knowledge and belief, no federal appropriated funds have been paid or will be paid, by or on behalf of it, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an office or employee of Congress, or an employee of a Member of congress in connections with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal funds have been paid or will be paid to any person for influencing or attempting to

influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this agreement, the Subgrantee will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying, " in accordance with its instructions.

21. **SUSPENSION AND TERMINATION:**

Suspension or termination may occur if the Subgrantee materially fails to comply with any term of this award, and the award may be terminated for convenience by the Grantee or Subgrantee upon written notification to the awarding agency (HUD), setting forth the reasons for such termination, the effective date, and in case of partial termination, the portion to be terminated.

22. **NOTICES:**

All notices, waivers, demands, requests or other communications required or permitted hereunder shall, unless otherwise expressly provided, be in writing and be deemed to have been properly given, served and received (i) if delivered by messenger, when delivered, (ii) if mailed, on the third business day after deposit in the United States, certified or registered, postage prepaid, return receipt requested, or (iii) if delivered by reputable overnight express courier, freight prepaid, the next business day after delivery to such courier; in every case addressed to the party to be notified as follows:

The Grantee: Darlene L. Burcham, City Manager, City of Roanoke, Virginia, 215 Church Avenue, SW, Room 364, Roanoke, VA 24011

A copy of all such notices shall be provided to the Grantee's Project Manager: Meg Munton, Budget Analyst, Department of Management & Budget, 215 Church Avenue, SW, Room 354, Roanoke, VA 24011.

The Subgrantee: Eileen Lepro, Executive Director, Kuumba Community Health & Wellness Center, Inc., 3716 Melrose Avenue, N.W., Roanoke, Virginia 24017

23. SUCCESSORS:

This Agreement shall be binding upon each parties, and their assigns, purchasers, trustees, and successors.

24. ENTIRE AGREEMENT:

This Agreement, including all of its Exhibits, represents the entire agreement between the parties and this Agreement shall not be modified, amended, altered or changed, except by written agreement executed by the parties.

25. GOVERNING LAW:

This Agreement shall be governed by laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year hereinabove written:

ATTEST:

CITY OF ROANOKE

By \_\_\_\_\_  
Mary F. Parker, City Clerk

By \_\_\_\_\_  
Darlene L. Burcham, City Manager

ATTEST:

KUUMBA COMMUNITY HEALTH &  
WELLNESS CENTER, INC.

By \_\_\_\_\_  
Secretary to the Board

By \_\_\_\_\_  
Eileen Lepro, Executive Director

APPROVED AS TO CDBG  
ELIGIBILITY:

APPROPRIATION AND FUNDS REQUIRED  
FOR THIS AGREEMENT CERTIFIED:

\_\_\_\_\_  
Office of Management & Budget

\_\_\_\_\_  
Director of Finance

Date: \_\_\_\_\_

Account No.: 035-G06-0637-5475 \$125,000

APPROVED AS TO FORM

APPROVED AS TO EXECUTION

-----  
Assistant City Attorney

-----  
Assistant City Attorney



## IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION authorizing the City Manager to execute a CDBG-funded Agreement, and any necessary amendments thereto, with Kuumba Community Health & Wellness Center, Inc., providing \$125,000 of Community Development Block Grant (CDBG) funds to assist with the acquisition of, and costs associated with, the purchase of property located at 3716 Melrose Avenue, N.W., Roanoke, Virginia.

WHEREAS, on May 10, 2005, City Council approved the submission of the Five Year Consolidated Plan for 2005-2010, including the Fiscal Year 2005-2006 One Year Action Plan, to the U. S. Department of Housing and Urban Development (HUD); and

WHEREAS, on June 20, 2005, City Council accepted the 2005-2006 CDBG funds and appropriated \$125,000 of CDBG funds to Kuumba Community Health & Wellness Center, Inc., for acquisition of property.

BE IT RESOLVED by the Council of the City of Roanoke that the City Manager and the City Clerk, are hereby authorized, for and on behalf of the City, to execute and attest, respectively, on behalf of the City, the Subgrant Agreement between the City and Kuumba Community Health & Wellness Center, Inc., providing \$125,000 of CDBG funds for acquisition of, and costs associated with, the purchase of property located at 3716 Melrose Avenue, N.W., Roanoke, Virginia, upon the terms and conditions set forth in the City Manager's letter, dated July 18, 2005, to this Council.

ATTEST:

City Clerk



## **CITY OF ROANOKE OFFICE OF THE CITY MANAGER**

Noel C. Taylor Municipal Building  
215 Church Avenue, S.W., Room 364

Roanoke, Virginia 24011-1591

Telephone: (540) 853-2333

Fax: (540) 853-1138

CityWeb: [www.roanokegov.com](http://www.roanokegov.com)

July 18, 2005

Honorable C. Nelson Harris, Mayor  
Honorable Beverly T Fitzpatrick, Jr., Vice Mayor  
Honorable M. Rupert Cutler, Council Member  
Honorable Alfred T. Dowe, Jr., Council Member  
Honorable Sherman P. Lea, Council Member  
Honorable Brenda L. McDaniel, Council Member  
Honorable Brian J. Wishneff Council Member

Dear Mayor Harris and Members of City Council:

Subject: Execution of DEQ Voluntary  
Remediation Program  
Documents and Declaration of  
Restrictive Covenants, Fire  
Station/Administration  
Building, 704 Franklin Rd, SW,  
Roanoke, Virginia

### **Background:**

The City of Roanoke has enrolled the site of the new Fire Station/Administration Building, located at 704 Franklin Road, SW, Roanoke, Virginia, into the Virginia Department of Environmental Quality's (VDEQ) Voluntary Remediation Program (VRP). Due to the past use of a portion of the site as a dry cleaning operation, the City's decision to enter the site into the VRP provides Roanoke with certain immunities under Virginia law with regard to waste management, and air and water quality.

### **Considerations:**

A stipulation for participation in the VRP was the City's agreement to a Declaration of Restrictive Covenants associated with the property that permits groundwater beneath the property to be used only for environmental monitoring and testing and that the property shall not be used for residential

Mayor Harris and Members of City Council  
July 18, 2005  
Page 2

purposes or for a children's daycare facility, schools or playground purposes. The residential exclusion does not apply to the use of the property for a fully-staffed Fire Station/Administration Building. A draft VRP Certification and Declaration of Restrictive Covenants is attached.

Recommended Action:

Authorize the City Manager to execute and record, and the City Clerk to attest, respectively, on behalf of the City of Roanoke, a Declaration of Restrictive Covenants and any documentation required by the VDEQ and to take such further action and execute such other documents as may be necessary to obtain VDEQ approval under the VRP.

Respectfully submitted,



Darlene L. Burcham  
City Manager

DLB:pjt

c: Mary F. Parker, City Clerk  
William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
James Grigsby, Acting Assistant City Manager for Operations  
Paul Truntich, Environmental Administrator

CM05-00101

**Prepared by:** Virginia Department of Environmental Quality  
629 E. Main Street  
Richmond, Virginia 23219  
(804) 698-4000

**Grantor:** City of Roanoke, Virginia  
**Grantee:** City of Roanoke, Virginia

**Tax Map Number: 1020310**

**DRAFT**  
**COMMONWEALTH OF VIRGINIA**  
**VOLUNTARY REMEDIATION PROGRAM**  
**CERTIFICATION OF**  
**SATISFACTORY COMPLETION OF REMEDIATION**

|   |   |
|---|---|
| <b>Program Participant[s]:</b>  | City of Roanoke   |
| <b>Site Owner:</b>  | City of Roanoke   |
| <b>Site Name:</b>   | Franklin Road/Elm Avenue Parcel   |
| <b>Site Location:</b><br><b>(plat attached)</b>   | 704 Franklin Road, SW<br>Roanoke, Virginia  |
| <b>Voluntary Remediation Program</b><br><b>Site ID Number:</b>  | 00380   |
| <b>Deed Book and Page Number of</b><br><b>Site Owner's Title:</b><br><i>(or Instrument Number based on</i><br><i>City requirements)</i> | Deed Book No. 1700<br><br>Deed Book Page 1142<br>Instrument Number 030017023  |
| <b>City/County of Record:</b>   | City of Roanoke   |
| <b>Description of Property:</b>   | ± 0.77 Acres  |
| <b>Current Zoning:</b>  | Central Business C-3  |
| <b>Proposed Use of Property:</b>  | Fire Station/ Administration Building   |
| <b>Conditions of Issuance (if any):</b>   | Institutional Controls - deed<br>restrictions incorporated in the<br>Declaration of Restrictive Covenants<br>that: (1) groundwater beneath the Site<br>shall not be used for any purpose<br>other than environmental monitoring<br>and testing and; (2) the Site shall not<br>be used for residential purposes or for |

**Conditions of Issuance (cont.):**

children's (under the age of 16) daycare facilities, schools or playground purposes (although hotels and motels are not prohibited). The residential exclusion also does not apply to the use of the Property for a fully-staffed Fire Station/Administration Building.

**Other Encumbrances on Site:**

None

**AUTHORITY**

PURSUANT to Code of Virginia §§ 10.1-1230 *et seq.*, and the Voluntary Remediation Regulations (Virginia Administrative Code §§ 20-160-10 *et seq.* (VAC)), the Participant submitted an application on December 17, 2003, to enroll the Participant and the Site in the Voluntary Remediation Program (Program). By letter dated February 13, 2004, the Waste Management Board, acting through the Director of the Department of Environmental Quality (Director) deemed the Participant and Site eligible and notified the Participant that the Site was enrolled in the Program. The Program provides for the Participant's voluntary remediation of releases of hazardous substances, hazardous waste, solid waste, or petroleum from the Site that is the subject of this Certification of Satisfactory Completion of Remediation (Certificate), issued under 9-VAC-20-160-110.

**DETERMINATION**

Pursuant to the authority granted under Va. Code §§ 10.1-1230 *et seq.*, the Director, or his designee, has reviewed the Voluntary Remediation Report (Report), concurs with all work submitted, as set forth in 9 VAC 20-160-80, has determined that the environmental impacts identified at the Site do not present an unacceptable risk to human health and the environment [if the institutional controls mentioned above are implemented,] and hereby issues this Certificate. No further action is required at the Site, except for the imposition of institutional controls as noted above.

As a result of the issuance of this Certificate, the Participant, current and future Site owners, and their successors-in-interest are afforded immunity from an enforcement action under the Virginia Waste Management Act (§§ 10.1-1400 *et seq.*), the State Water Control Law (§§ 62.1-44.2 *et seq.*), the Air Pollution Control Law (§§ 10.1-1300 *et seq.*), or other applicable Virginia law. The immunity accorded by the Certificate shall apply to the Participant, current and future owners of the Site and their successors-in-interest, and shall run with the land identified as the Site.

## **RESERVATION OF RIGHTS**

The immunity granted by issuance of this Certificate shall be limited to Site conditions at the time of issuance as those conditions are described in the information submitted by the Participant pursuant to participation in the Program. The immunity is further conditioned upon satisfactory performance by the Participant of all obligations required by the Director under the Program and upon the veracity, accuracy, and completeness of the information submitted to the Director by the Participant relating to the Site.

The immunity provided for under this Certificate does not pertain to any matter other than that expressly specified in the section above entitled "Determination." The Director reserves, and this immunity is without prejudice to, the right to revoke or modify the Certificate (1) in the event conditions at the Site, unknown at the time of issuance of the Certificate, pose a risk to human health or the environment; or (2) in the event that the Certificate was based on information that was false, inaccurate, or misleading. The Director further reserves, and this Certificate and immunity is without prejudice to, the right to pursue any and all claims for liability for failure to meet a requirement of the Program, criminal liability, or liability arising from future activities at the Site which may cause contamination by pollutants. By issuance of this Certificate, the Director does not waive sovereign immunity.

This Certificate is not and shall not be interpreted to be a permit or a modification of an existing permit or administrative order issued pursuant to state law, nor shall it in any way relieve the Participant of its obligation to comply with any other federal or state law, regulation, or administrative order. Any new permit or administrative order, or modification of an existing permit or administrative order must be accomplished in accordance with applicable federal and/or state laws and regulations.

## **DISCUSSION OF RELEVANT INFORMATION**

The subject site had been developed with the Crystal Springs Laundry from approximately 1914 to 1977, at which time it was demolished. The subject site has been undeveloped since then. Soil and groundwater sampling was conducted at the subject site in 2002 and 2003 and both soil and groundwater were found to be impacted by dry cleaning solvents. A groundwater monitoring well was installed in 2004. Laboratory analyses indicated soil and groundwater at the subject site to be impacted with chloroform, 1,2-dichlorobenzene (1,2-DCB), cis-1,2,-dichloroethene (c-1,2-DCE), tetrachloroethene (PCE) and trichloroethene (TCE). Only PCE and TCE in groundwater exceeded the VRP Tier II Screening Levels and a quantitative risk assessment determined that the concentrations present at the site did not pose a significant risk.

In July 1998 during a geotechnical investigation, an underground storage tank (UST) containing gasoline was encountered and removed. The UST was

documented to have had a release and was addressed under the Commonwealth of Virginia UST regulations. Remaining petroleum constituents were addressed under the VRP Risk Assessment.

Reports submitted include: *"Addendum Report of Soil and Groundwater Sampling and Laboratory Analyses – Elm Avenue Parcel (Tax Plat 1020310)"*, dated January 2, 2003 (included all data from the initial site investigation); *"Report of Soil and Groundwater Sampling and Laboratory Analyses – Elm Avenue Parcel (Tax Plat 1020304)"*, dated February 6, 2003; *"Report of Groundwater Sampling and Risk Assessment – Franklin Road/Elm Avenue Parcel (VRP 00380)"*, dated May 21, 2004; *"Report of Underground Storage Tank Closure and Initial Abatement Measures – Franklin Road/Elm Avenue Parcel"*, dated July 20, 2004; and, *"Comment Letter Response – Franklin Road/Elm Avenue Parcel (VRP 00380)"*, dated August 4, 2004.

The risk assessment concluded that contamination in the soil and groundwater at the Site did not present an unacceptable risk to human health or the environment provided that the impacted groundwater at the Site is not used for drinking water purposes or development for residential or children day care purposes. Therefore, the following deed restrictions are to be incorporated: (1) groundwater beneath the Site shall not be used for any purpose other than environmental monitoring and testing and; (2) the Site shall not be used for residential purposes or for children's (under the age of 16) daycare facilities, schools or playground purposes (although hotels and motels are not prohibited). The residential exclusion also does not apply to the use of the Property for a fully-staffed Fire Station/ Administration Building.

In consideration of the implementation of the above-noted institutional controls, the Director has accepted the conclusions of the Report.

**This Certificate is conditioned upon its being signed by the Participant and owner, and recorded within 90 calendar days of its issuance, in the land records of the City of Roanoke, Virginia. A certified copy of the Certificate as recorded must be submitted to the Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, ATTN: Voluntary Remediation Program.**

*Remainder of Page Intentionally Left Blank*

**Robert G. Burnley, Director  
Department of Environmental Quality**

Date: \_\_\_\_\_

BY: \_\_\_\_\_  
Robert J. Weld, Office Director  
Office of Remediation Programs

State of Virginia,

The foregoing instrument was acknowledged before me this \_\_\_\_\_ by  
\_\_\_\_\_.

[Notary Seal]

My Commission Expires: \_\_\_\_\_ Notary Public

Date: \_\_\_\_\_

BY: \_\_\_\_\_  
City of Roanoke, Virginia  
By: Darlene L. Burcham, City Manager

State of Virginia  
City of Roanoke

The foregoing instrument was acknowledged before me this \_\_\_\_\_ by  
\_\_\_\_\_.

[Notary Seal]

My Commission Expires: \_\_\_\_\_ Notary Public



**GRANTOR: City of Roanoke, Virginia      Tax Map Number: 1020310**

**GRANTEE: City of Roanoke, Virginia**

**DECLARATION OF RESTRICTIVE COVENANTS**

This Declaration of Restrictive Covenants made as of this \_\_\_\_ day of July, 2005, under the authority of Virginia Code Section 10.1-1230 *et seq.* and 9 VAC 20-160-110 by the City of Roanoke, owner of the fee simple title to the property hereinafter described, GRANTOR, as follows:

ALL THAT certain tract, piece or parcel of land containing a total  $\pm$  0.77 acres, lying and being in the City of Roanoke, Virginia, and plat attached.

WHEREAS, the City of Roanoke is the fee simple owner of the said property (see deed recorded in Deed Book 1700, page 1142; and Instrument Number 030017023;

WHEREAS, in consideration of certain concessions made by the Director of the Virginia Department of Environmental Quality, the Grantor has agreed to establish certain irrevocable restrictive covenants limiting the use of certain portions of said property in order to protect human health and the environment;

NOW THEREFORE, for the consideration referred to above, the receipt and legal sufficiency of which is hereby acknowledged by the undersigned, and in order to protect human health and the environment, the undersigned do hereby irrevocably, dedicate, declare and impose the following restrictive covenants to run with the land on the above described property as follows:

1. The groundwater beneath the property shall not be used for any purpose other than environmental monitoring and testing.
2. The property shall not be used for residential purposes or for children's (under the age of 16) daycare facilities, schools or playground purposes (although hotels and motels are not prohibited). The residential exclusion also does not apply to the use of the Property for a fully-staffed Fire Station/Administration Building.

This Declaration of Restrictive Covenants may be modified or released only with the consent of the Director of the Department of Environmental Quality, upon a showing of changed circumstances sufficient to justify the change.

Given under my hand and seal at Roanoke, Virginia, on the \_\_\_\_\_ day of July, 2005,

\_\_\_\_\_  
City of Roanoke, Virginia  
By: Darlene L. Burcham  
City Manager

State of Virginia  
City of Roanoke

The foregoing instrument was acknowledged before me this \_\_\_\_\_ by

\_\_\_\_\_.

[Notary Seal]

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

## IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE authorizing the City Manager to execute a Declaration of Restrictive Covenants and Certification of Satisfactory Completion of Remediation and any documentation required by the Virginia Department of Environmental Quality (VDEQ) and take such further action as may be needed to obtain the VDEQ approval for a Certification of Satisfactory Completion of Remediation for certain City owned property located at 704 Franklin Road, SW, containing approximately 0.77 acres, and being Official Tax Map No. 1020310; and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. The City Manager and the City Clerk are hereby authorized to execute and to attest, respectively, a Declaration of Restrictive Covenants and Certification of Satisfactory Completion of Remediation and any related and necessary documents, in a form approved by the City Attorney, in connection with certain City owned property located at 704 Franklin Road, SW, containing approximately 0.77 acres and being Official Tax Map No. 1020310, upon certain terms and conditions as may be required by the VDEQ and as set forth in the City Manager's letter to Council dated July 18, 2005.

2. The City Manager is authorized to take such further action, to include the recording of documents, and execute such other documents as may be necessary to obtain the VDEQ approval for the City's successful completion of remediation of the above property under VDEQ's Voluntary Remediation Program.

3. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



## **CITY OF ROANOKE OFFICE OF THE CITY MANAGER**

Noel C. Taylor Municipal Building  
215 Church Avenue, S.W., Room 364  
Roanoke, Virginia 24011-1591  
Telephone: (540) 853-2333  
Fax: (540) 853-1138  
CityWeb: [www.roanokegov.com](http://www.roanokegov.com)

July 18, 2005

Honorable C. Nelson Harris, Mayor  
Honorable Beverly T. Fitzpatrick, Jr., Vice Mayor  
Honorable M. Rupert Cutler, Council Member  
Honorable Alfred T. Dowe, Jr., Council Member  
Honorable Sherman P. Lea, Council Member  
Honorable Brenda L. McDaniel, Council Member  
Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject: I-73 Programmatic Agreement

### **Background:**

As part of the effort to complete the Final Environmental Impact Statement for the I-73 Location Study, the Virginia Department of Transportation (VDOT) has developed a Programmatic Agreement that enumerates the responsibilities of the signatories in implementing the various stipulations of the Programmatic Agreement to resolve adverse effects to the Blue Ridge Parkway. The City of Roanoke is one of several consulting parties that have been involved in the process of evaluating potential impacts to the Blue Ridge Parkway.

### **Considerations:**


The Federal Highway Administration (FHWA) and VDOT intend to address potential adverse effects through implementation of a Memorandum of Agreement (MOA,) developed in consultation with the consulting parties identified for this project by FHWA. A draft MOA was issued in October 2004, followed by a revised draft MOA issued in April 2005. All comments received from consulting parties were addressed and incorporated, and at this time, FHWA has determined that based on comments received on the revised draft MOA, no further substantive changes to the agreement document have been made. FHWA now requests signatures on the final Programmatic Agreement for the I-73 Corridor Project.

With regard to the Blue Ridge Parkway (BRP) crossing design, the Agreement stipulates, in part, that "The VDOT shall implement the Project so that the major features of the Interstate 73 crossing of the BRP include a divided median interstate with six traffic lanes that will be maintained within the existing 160-foot-wide dedicated right-of-way of Route 220. No direct connection between Interstate 73 and the BRP shall be constructed in the current location of the Route 220 and BRP interchange. As desired by the NPS-BRP, VDOT shall remove the existing access connection between Route 220 and the BRP upon initiation of construction of the section of the Project crossing the BRP. The VDOT shall remit to the NPS-BRP at the time of said construction the amount of the cost savings to the Project that result from the decision not to restore the existing access (savings equal to the amount design and construction of the access ramps would cost if access were restored.) The NPS-BRP shall apply this money to the design and construction of an access connection to the BRP at another location in the Clearbrook area of Roanoke County between BRP mileposts 120 and 123. This location will be determined by the NPS-BRP in consultation with Roanoke County and the City of Roanoke."

Recommendation:

City Council authorize the Mayor to execute this agreement, which is binding on the City for 20 years.

Respectfully submitted,



Darlene L. Burham  
City Manager

DLB/gpe

Attachment

Mary F. Parker, City Clerk  
William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
Robert K. Bengtson, P.E., Director of Public Works  
Kenneth H. King Jr., P.E., Manager, Division of Transportation

CM05-00107

WJX

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION authorizing the Mayor to execute an I-73 Programmatic Agreement with the Federal Highway Administration (FHWA), the Advisory Council on Historic Preservation, the Virginia State Historic Preservation Officer, the Virginia Department of Transportation, the National Park Service, and Roanoke County, regarding the Interstate 73 Corridor proposed to run through the City of Roanoke, such agreement containing provisions seeking to resolve any adverse effects this undertaking may have on the Blue Ridge Parkway or other historic properties.

WHEREAS, the Virginia Department of Transportation (VDOT) proposes to construct Interstate 73 (VDOT Project No. 0073-962-FO 1, PE 101; PPMS 16596; VDHR File No. 94-0572) extending south from Interstate 81 in Roanoke to the Virginia-North Carolina state line, hereinafter referred to as the Project;

WHEREAS, the VDOT anticipates receiving Federal financial assistance for the Project from the Federal Highway Administration (FHWA), and the FHWA has determined that the provision of financial assistance for the Project is an appropriate undertaking;

WHEREAS, pursuant to the Rivers and Harbors Act of 1899 and the Clean Water Act of 1973, a Department of the Army permit will likely be required from the Corps of Engineers, and the Corps has designated FHWA as the lead federal agency to fulfill federal responsibilities under the National Historic Preservation Act;

WHEREAS, the final alignment of the proposed Interstate 73 crossing of the Blue Ridge Parkway was approved by the Commonwealth Transportation Board on July 15, 2004, and will be located in the vicinity of the existing crossing of Route 220 at the Blue Ridge Parkway;

WHEREAS, the FHWA, in cooperation with VDOT, and in consultation with the Virginia State Historic Preservation Officer (SHPO), has determined that the Project will have an adverse effect on the Blue Ridge Parkway, a property considered eligible for the National Register of Historic Places;

WHEREAS, the FHWA, with the assistance of VDOT, has consulted with the Advisory Council on Historic Preservation and the SHPO, to address the potential effects of the Project on historic properties in accordance with the National Historic Preservation Act and its implementing regulations; and

WHEREAS, the City of Roanoke and the County of Roanoke, and Virginians for Appropriate Roads (VAR) have participated as consulting parties during the consultation process and have been invited by the FHWA to concur in this Programmatic Agreement.

THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. The Mayor is hereby authorized to execute the I-73 Programmatic Agreement in order to ensure that the I-73 Corridor project shall be implemented in accordance with proper measures to resolve any adverse effects it may have on the Blue Ridge Parkway or other historic properties.

2. The City Clerk is directed to transmit attested copies of this Resolution to the Federal Highway Administration, the Chair of the Advisory Council on Historic Preservation, the State Historic Preservation Officer, the National Park Service, Mr. Bruce Penner at the Virginia Department of Transportation, and to the County of Roanoke.

ATTEST:

City Clerk.



## **CITY OF ROANOKE OFFICE OF THE CITY MANAGER**

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July 18, 2005

Honorable C. Nelson Harris, Mayor  
Honorable Beverly T. Fitzpatrick, Jr., Vice Mayor  
Honorable M. Rupert Cutler, Council Member  
Honorable Alfred T. Dowe, Jr., Council Member  
Honorable Sherman P. Lea, Council Member  
Honorable Brenda L. McDaniel, Council Member  
Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject: Mill Mountain Theater Funding

### **Background:**

During Fiscal Year 2005-2006 Budget Study, City Council was briefed on the funding request from Mill Mountain Theater. As a part of the briefing and subsequent discussion, staff provided City Council with a recommendation which entailed the provision of \$200,000 for capital improvements over four (4) years as a part of the FY 2005-2006 Capital Maintenance and Equipment Replacement Program (CMERP).

### **Considerations:**

Mill Mountain Theater requested consideration for the allocation of \$125,000 in the first year and \$25,000 each year for three (3) subsequent years. Mill Mountain Theater also requested that the funding be made available in July in order to make the capital improvements during the off-season. In order to facilitate providing the funding in July, there is the need to front fund the allocation from Capital Project Contingency with reimbursement from CMERP.

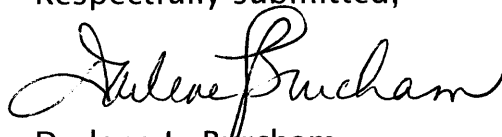


Mayor Harris and Members of City Council  
July 18, 2005  
Page 2

Recommended Action:

Transfer \$125,000 from Capital Project Contingency (08-530-9575-9178) to an account to be established by the Director of Finance in the Capital Projects Fund.

Respectfully submitted,

A handwritten signature in cursive script, reading "Darlene Burcham".

Darlene L. Burcham  
City Manager

DLB:am

c: Mary F. Parker, City Clerk  
William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
Sherman M. Stovall, Director of Management and Budget

CM05-00102

## IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to transfer funding from Capital Improvement Reserve for the Mill Mountain Theater, amending and reordaining certain sections of the 2005-2006 Capital Projects Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2005-2006 Capital Projects Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

## Appropriations

|                                   |                   |            |
|-----------------------------------|-------------------|------------|
| Appropriated from General Revenue | 008-310-9843-9132 | \$ 125,000 |
| Economic Development              | 008-530-9575-9178 | (125,000)  |

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



**WILLIAM M. HACKWORTH**  
CITY ATTORNEY

**CITY OF ROANOKE**  
**OFFICE OF CITY ATTORNEY**  
464 MUNICIPAL BUILDING  
215 CHURCH AVENUE, SW  
ROANOKE, VIRGINIA 24011-1595

TELEPHONE: 540-853-2431  
FAX: 540-853-1221  
EMAIL: [cityatty@ci.roanoke.va.us](mailto:cityatty@ci.roanoke.va.us)

**TIMOTHY R. SPENCER**  
**STEVEN J. TALEVI**  
**GARY E. TEGENKAMP**  
**DAVID L. COLLINS**  
**HEATHER P. FERGUSON**  
ASSISTANT CITY ATTORNEYS

July 18, 2005

The Honorable Mayor and Members  
of City Council  
Roanoke, Virginia

Re: Proposed Amendment to Articles of Incorporation for Western Virginia Water Authority

Dear Mayor Harris and Members of Council

The Board of the Western Virginia Water Authority has requested that its Articles of Incorporation be amended to provide that after the terms of the present members end, that the terms of their successors commence on July 1 of the year of their appointment, rather than on March 1, as is currently the case. The stated purpose of the request is to permit members to serve through the Authority's annual budget process, and not have their terms end or begin in the midst of that process. The procedure that must be followed to amend the Authority's Articles of Incorporation is the same that was followed when they were adopted in 2004. The County and the City both must advertise, at least thirty days in advance, a public hearing, after which the governing bodies of the localities may adopt concurrent resolutions authorizing amended Articles to be filed with the State Corporation Commission. A public hearing for Council to consider this request has been advertised for July 18, and a copy of the proposed resolution is attached for your consideration.

Please let me know if you have any questions about this matter.

With kindest personal regards, I am

Sincerely yours,

A handwritten signature in cursive script that reads "William M. Hackworth".

William M. Hackworth  
City Attorney

WMH:f

Attachment

cc: Darlene L. Burcham, City Manager  
Harwell M. Darby, Jr., Esquire, General Counsel, WVWA  
Paul M. Mahoney, County Attorney

IN THE COUNCIL FOR THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION amending and restating the Articles of Incorporation for the Western Virginia Water Authority (the “Authority”).

WHEREAS, the Board of Supervisors of Roanoke County, Virginia ( the “County”) and the City Council of the City of Roanoke, Virginia (the “City”) have jointly determined that it is in the best interests of the Authority to amend and restate the Authority’s Articles of Incorporation pursuant to the applicable provisions of the Virginia Water and Waste Authorities Act, Chapter 51, Title 15.2 of the 1950 Code of Virginia, as amended (the “Act”), and desire to do so by the adoption of concurrent resolutions; and

WHEREAS, a public hearing has been held in accordance with the requirements of §15.2-5104 of the Act.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke, as follows:

1. The Articles of Incorporation of the Authority are hereby amended and restated as follows:

**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF THE  
WESTERN VIRGINIA WATER AUTHORITY**

The Board of Supervisors of Roanoke County and the Council of the City of Roanoke have by concurrent resolution adopted the following Articles of Incorporation of the Western Virginia Water Authority, pursuant to the Virginia Water and Waste Authorities Act (Chapter 51, Title 15.2 of the 1950 Code of Virginia, as amended) (“Act”).

## **ARTICLE I**

The name of the Authority shall be the Western Virginia Water Authority and the address of its principal office is 600 South Jefferson Street, Suite 200, Roanoke, Virginia 24011.

## **ARTICLE II**

The names of the incorporating political subdivisions are the County of Roanoke, Virginia and the City of Roanoke, Virginia. The County of Roanoke and the City of Roanoke, as the incorporating political subdivisions, hereby acknowledge, covenant, and agree that these Articles of Incorporation shall not be further amended or changed without the express agreement of each of the governing bodies of each of the incorporating political subdivisions. None of the following actions shall be taken or permitted to occur by the Board of the Authority without the affirmative vote of a majority of the members from each incorporating political subdivision of the Board of the Authority:

- (1) The inclusion of additional political subdivisions on the Authority;
- (2) Additional agreement with other political subdivisions, entities, or persons, for the bulk sale of surplus water or the acceptance and treatment of waste water.
- (3) The recommendation to the governing bodies for the appointment of the seventh member of the Board of the Authority.

## **ARTICLE III**

The Board of the Authority shall consist of seven members. The names, addresses, and terms of office of the initial members of the Board of the Western Virginia Water Authority (“Authority”) are as follows:

1. Elmer C. Hodge, County Administrator – 3 year term  
Roanoke County Administration Center  
5204 Bernard Drive  
P. O. Box 29800  
Roanoke, VA 24018

2. Michael W. Altizer, Board of Supervisors – 2 year term  
3108 Valley Stream Drive  
Roanoke, VA 24014
3. H. Odell “Fuzzy” Minnix , Citizen – 4 year term  
3314 Kenwick Trail, SW  
Roanoke, VA 24018
4. Darlene L. Burcham, City Manager – 3 year term  
Noel C. Taylor Municipal Building  
City Manager’s Office  
215 Church Avenue, Room 364  
Roanoke, VA 24011
5. M. Rupert Cutler, City Council –2 year term  
8 North Jefferson Street, #503  
Roanoke, VA 24016
6. Robert C. Lawson, Jr., Citizen – 4 year term  
Suntrust Bank, Suntrust Plaza  
10 Franklin Road, SE, 9<sup>th</sup> Floor  
Roanoke, VA 24001  
P. O. Box 2867  
Roanoke, VA 24001
7. George W. Logan, Citizen – 4 year term  
2217 Crystal Spring Ave., SW, Suite 200  
Roanoke, VA 24014  
P. O. Box 1190  
Salem, VA 24153

Mr. Logan resigned from the Board effective May 19, 2005 and the following director has been appointed to fulfill the unexpired portion of his term:

John B. Williamson, III  
Roanoke Gas Company  
519 Kimball Ave, N. E.  
Roanoke, Virginia 24016

The terms of office of each of the initial members shall begin on the date of issuance of a certificate of incorporation or charter for the Authority by the State Corporation Commission. The governing body of each participating political subdivision shall appoint the number of members, who may be members of the governing body, set forth opposite its name below:

County of Roanoke - three

City of Roanoke – three

A seventh member shall be appointed jointly by the City of Roanoke and County of Roanoke. The six members of the Authority Board shall recommend to the City and the County the appointment of the seventh member. The City and the County shall ratify and confirm the appointment of the seventh member. If the City and the County fail to act or are unable to act within 60 days of the receipt of this recommendation, then the appointment of the seventh member shall be made by the judges of the Circuit Court for the 23<sup>rd</sup> Judicial Circuit.

Initially, the governing body of the County of Roanoke shall appoint one member for a four-year term, one member for a three-year term, and one member for a two-year term. Initially, the governing body of the City of Roanoke shall appoint one member for a four-year term, one member for a three-year term, and one member for a two-year term.

After the initial terms, each member shall be appointed for a four-year term or until a successor is appointed and qualified, which four-year term shall begin on July 1 of the year in which the previous, initial term expires. The governing body of each political subdivision shall be empowered to remove at any time, without cause, any member appointed by it and appoint a successor member to fill the unexpired portion of the removed member's term.

Each member shall be reimbursed by the Authority for the amount of actual expenses incurred in the performance of Authority duties.

#### **ARTICLE IV**

The purposes for which the Authority is to be formed are to exercise all the powers granted to the Authority to acquire, finance, construct, operate, manage and maintain a water, waste water, sewage disposal and storm water control system and related facilities pursuant to the Virginia Water and Waste Authorities Act, Chapter 51, Title 15.2 of the 1950 Code of

Virginia, as amended (“Act”). The Authority shall have all of the rights, powers, and duties of an authority under the Act.

It is not practicable to set forth herein information regarding preliminary estimates of capital costs, proposals for specific projects to be undertaken, or initial rates for the proposed projects.

#### **ARTICLE V**

The Authority shall serve the County of Roanoke, the City of Roanoke, and to the extent permitted by the Act and by the terms of these Articles and the Western Virginia Water Authority Operating Agreement, such other public or private entities as the Authority may determine upon the terms and conditions established pursuant to such contracts.

#### **ARTICLE VI**

The Authority shall cause an annual audit of its books and records to be made by the State Auditor of Public Accounts or by an independent certified public accountant at the end of each fiscal year and a certified copy thereof to be filed promptly with the governing body of each of the political subdivisions.

#### **BOARD OF SUPERVISORS OF ROANOKE COUNTY, VIRGINIA**

By \_\_\_\_\_  
Elmer C. Hodge, County Administrator  
and Incorporator

#### **CITY COUNCIL OF THE CITY OF ROANOKE, VIRGINIA**

By \_\_\_\_\_  
Darlene L. Burcham, City Manager  
and Incorporator



2. This resolution shall take effect immediately upon its adoption.

ATTEST:

City Clerk.



## CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building  
215 Church Avenue, S.W., Room 364  
Roanoke, Virginia 24011-1591

Telephone: (540) 853-2333

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July 18, 2005

Honorable C. Nelson Harris, Mayor  
Honorable Beverly T. Fitzpatrick, Jr., Vice Mayor  
Honorable M. Rupert Cutler, Council Member  
Honorable Alfred T. Dowe, Jr., Council Member  
Honorable Sherman P. Lea, Council Member  
Honorable Brenda L. McDaniel, Council Member  
Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject: Conveyance of City Owned  
Property To Western Virginia  
Water Authority Tax No. 2340106

The City owns property located on Carroll Avenue that was previously held by the Water Department. The parcel is located on Carroll Avenue and has a 2-million gallon water storage tank located on it. (See Attachment #1). This parcel was inadvertently omitted from the initial transfer of property to the Western Virginia Water Authority. The City desires to convey this parcel to the Western Virginia Water Authority.

Recommended Action:

Authorize the City Manager to execute the appropriate documents to convey the property to the Western Virginia Water Authority for nominal consideration, such documents to be approved as to form by the City Attorney.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Darlene Burcham".  
Darlene L. Burcham  
City Manager

DLB/SEF

Attachment

c: Mary F. Parker, City Clerk  
William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
Sarah E. Fitton, Engineering Coordinator

CM05-00103



IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE authorizing the City Manager to execute the necessary documents to convey City-owned property housing a water storage tank, located on Carroll Avenue, consisting of 1.2508 acres and identified as Official Tax No. 2340106, to the Western Virginia Water Authority, upon certain terms and conditions, and dispensing with the second reading by title of this ordinance.

WHEREAS, a public hearing was held on July 18, 2005, pursuant to §§15.2-1800(B) and 1813, Code of Virginia (1950), as amended, at which hearing all parties in interest and citizens were afforded an opportunity to be heard on such conveyance.

BE IT ORDAINED by the Council of the City of Roanoke, Virginia, that:

1. The City Manager and City Clerk are authorized to execute and attest, respectively, upon form approved by the City Attorney, the necessary documents to convey for nominal consideration City-owned property housing a water storage tank, located on Carroll Avenue, consisting of 1.2508 acres and identified as Official Tax No. 2340106, to the Western Virginia Water Authority, upon certain terms and conditions, and as more particularly stated in the City Manager's letter to City Council dated July 18, 2005.

2. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



## CITY OF ROANOKE OFFICE OF THE CITY MANAGER

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July 18, 2005

Honorable C. Nelson Harris, Mayor  
Honorable Beverly T. Fitzpatrick, Jr., Vice-Mayor  
Honorable M. Rupert Cutler, Council Member  
Honorable Alfred T. Dowe, Council Member  
Honorable Sherman P. Lea, Council Member  
Honorable Brenda L. McDaniel, Council Member  
Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject: License Agreement  
between the City and  
Roanoke Sports Group,  
LLC

### Background:

On February 25, 2005, the United Hockey League (UHL) announced that the league's Board of Governors had granted approval to Ken and Kristen Dixon to bring their hockey team to Roanoke. They have formed a Limited Liability Corporation, Roanoke Sports Group, doing business as the Roanoke Valley Vipers. There are 15 teams in the league which is in its 15<sup>th</sup> season. The team will play 38 home games.

The initial term of the License Agreement is for three years, with an additional two-year term upon mutual agreement between the Roanoke Sports Group, LLC and the City of Roanoke. The new team will replace the now defunct Roanoke Express (formerly Valley Rampage, Valley Rebels, and Virginia Lancers) of the East Coast Hockey League that occupied the Roanoke Civic Center Coliseum from 1988 until 2004.

The team owners have the financial resources to bring hockey back to Roanoke and experience in the sport and as business owners. The owners anticipate generating revenue in excess of \$200,000 by creating special incentives to increase attendance.


Considerations:

After thorough research and careful consideration, we have determined that the league's reputation, the owner's financial status and sports experience, along with their business backgrounds would be an asset to the Roanoke Valley. We have collaborated to develop a license agreement to benefit both parties. Entering into the proposed Agreement with Roanoke Sports Group, LLC would further enable the City to achieve its goals of promoting quality events that can be enjoyed by the entire family and all age groups. Also, it would increase revenue for the City of Roanoke and the Civic Center. The Agreement would be for three (3) years with a two-year option to extend. The season would be from October to April. Specific dates for the 2005-2006 hockey season were finalized the end of June. Furthermore, the City will convey 736 square feet of office space to the Roanoke Sports Group, LLC, as part of the terms and duration of such license agreement.

Recommended Action:

Authorize the City Manager and City Clerk to execute a License Agreement between the City and Roanoke Sports Group, LLC. All documents necessary to implement the terms of the Agreement shall be approved as to form by the City Attorney. Authorize the City Manager to take further actions and execute further documents as may be necessary to implement and administer such Agreement, including exercising the option to extend the Agreement.

Respectfully submitted,



Darlene L. Burcham  
City Manager

DLB:wyb

c: Mary F. Parker, City Clerk  
William M. Hackworth, City Attorney  
Jesse A. Hall, Director of Finance  
Glenn A. Asher, Risk Management Officer  
Wilhemina Y. Boyd, CFE, Director of Civic Facilities

CM05-00083

## **LICENSE AGREEMENT**

THIS LICENSE AGREEMENT (Agreement) is dated \_\_\_\_\_, 2005, between CITY OF ROANOKE, VIRGINIA, hereinafter referred to as "City" or "licensor" and Roanoke Sports Group, LLC, an Ohio limited liability company, 6299 Dressler Rd., NW, North Canton, OH 44720, hereinafter referred to as "Licensee."

### **WITNESSETH:**

Whereas, Licensor is the owner of the Roanoke Civic Center and the appurtenances thereto, which are located at 710 Williamson Road, N.E. in Roanoke Virginia, including a coliseum, exhibit hall, performing arts theatre, and parking areas (the "Civic Center").

Whereas, Licensee is affiliated with and a franchisee of the United Hockey League (UHL) and is owner of the Roanoke Valley Vipers, who promote and present minor league professional hockey games.

Whereas Licensor wishes to grant to Licensee certain rights to use those areas of the Civic Center that are defined herein to present and promote hockey games and Licensee wishes to use the Civic Center to present and promote such hockey games on the terms and conditions set forth herein.

THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, subject to the provisions set forth above, City and Licensee agree as follows:

1. **Licensed Premises and Term:**

- A. City grants Licensee permission as hereinafter set forth to use only those portions of the Roanoke Civic Center known as the Coliseum floor, designated dressing rooms, and designated storage spaces, all of those portions herein referred to as "Licensed Space" or "Space" or "Premises." Such permission to use the Premises is granted ONLY for the specific dates and times as may be agreed to pursuant to Paragraphs 3 and 4 for the 2005-2006, 2006-2007, and 2007-2008 hockey seasons, including pre-season and playoff games. The hockey season, including training camp and post season games, generally runs from approximately October 1 – May 31. City further grants Licensee, at no additional charge, permission to use the Coliseum for practice at times mutually agreed to by the parties, including preseason training camp, and Licensee shall have priority for practice time before 5:00 p.m. on each such day ice is available in the Coliseum. During training camp, use time may go beyond 5:00 p.m. City further grants Licensee, during the regularly scheduled hockey season, at no additional charge, the use of a dressing room, and storage for lockers and equipment, such space to be designated by City.

The initial term of the Agreement shall commence as of June 1, 2005, and end May 31, 2008. The initial term of this Agreement may be extended for an additional two-year term upon the mutual agreement of both parties. The party wishing to extend the initial term shall notify the other party of its desire to extend the initial term by delivering to the other party a written notice of such desire, no sooner than 360 days, but no later than 150 days prior to the expiration of the initial term. The party receiving the request shall, within 60 days after receipt of the request, notify the requesting party in writing if it consents to the extension. If the party receiving the request fails to respond, the request will be deemed rejected and there will be no extension, unless otherwise agreed upon in advance in writing by the City and the Licensee. If the parties mutually agree to an extension as provided for above, the term of this agreement shall be extended for an additional two years, upon the same terms and conditions as set forth herein. The initial term and any extended term as provided in this Agreement, are collectively referred to as the "Term."

- B. Licensee and its employees or players shall not use any part of the Coliseum, other than the Premises, or any other locations on the Roanoke Civic Center property without the express written consent of the Civic Center management, which will not be unreasonably withheld.
- C. Licensee will be provided a minimum of 4 office spaces totaling 736 square feet, with utilities included. If the National Basketball Development League ("NBDL") team, the Roanoke Dazzle, leaves at the end of its license agreement, the hockey Licensee will have first right of refusal to utilize designated office spaces the Dazzle currently occupies, before the space is made available to another party. Licensee will be responsible for janitorial service, telephone and cable television in office spaces they occupy.

2. Purpose: Licensee shall use the Premises for the sole purpose of hockey and hockey related activities.

3. Use Dates:

- A. All game dates for the 2005-2006 hockey season have been mutually determined and the 2005-2006 game schedule dates are already fixed and such schedule is attached hereto as Exhibit A and made a part hereof. Such game dates may be changed only by mutual agreement of the City and Licensee. Furthermore, any playoff game dates are to be mutually determined by the parties at a later date subject to the availability of the Coliseum. Holding dates for the 2006-2007 and 2007-2008 seasons are described below under Paragraph 4.
- B. All games scheduled for Friday or Saturday will begin at 7:30 p.m. unless otherwise mutually agreed upon. Weekday games will begin at 7:00 p.m. and Sunday games will begin at 4:00 p.m. unless otherwise agreed upon.



- C. Licensee's use of the Coliseum for regularly scheduled games may begin two hours before the scheduled game time and shall terminate one-half hour after conclusion of the game, except that Licensee's employees may have access to the Coliseum up to 8 hours before game time in order to prepare for the game, unless otherwise directed by Civic Center management after consultation with Licensee.
  - D. Practice shall be at such times as agreed upon by the parties and as set forth in Paragraph 1 above.
  - E. Use of the designated dressing rooms shall begin as mutually agreed by the parties at the start of the hockey season and terminate at the conclusion of the hockey season, including playoff games, or as the City may otherwise direct Licensee concerning the use of such rooms.
4. Holding Dates: The dates for the 2005-2006 hockey season have been determined and are set forth in Exhibit A and may only be changed by the mutual written agreement of the parties. Furthermore, any playoff game dates are to be mutually determined by the parties at a later date subject to the availability of the Coliseum.

Prior to February 1 of each year during the term of this Agreement, Licensor shall submit a list of 60 dates reasonably spaced throughout the duration of the upcoming League season that are available for Licensee to reserve for League Game Dates ("Arena List of Available Dates"). The Arena List of Available Dates shall include 22 Friday and/or Saturday dates not then reserved by Licensor for other events reasonably spaced throughout the duration of such League season.

5. City Admissions Tax: A 9% City admissions tax is assessed per ticket on all tickets sold and on all complimentary tickets issued. Licensee shall be responsible for collection and payment of such tax and also authorizes Licensor to deduct applicable taxes from settlement and remit such taxes to the City on behalf of the Licensee. Admissions tax on season tickets (both sold and complimentary) will be the responsibility of Licensee to collect and pay to the City in accordance with the City Code, and Licensee further authorizes Licensor to deduct any and all such taxes due the City from settlement from the first game and each game thereafter until paid in full.
6. Facility Surcharge: A facility surcharge in the amount of \$2.00 for adults and \$1.00 for children shall be charged on all tickets sold, including season tickets. This is a charge to the ticket purchaser, not the Licensee. All tickets must list the price of the event and the facility surcharge separately. No surcharge will be charged on complimentary tickets or for events where no admission is charged. If any tickets are printed or sold by the Licensee in accordance with this License Agreement, the Licensee shall be responsible for collection of this facility surcharge and payment to the City of the surcharge amount due the City. Any additional fees or charges that may be established by the City or Civic Center Commission during the term of this

Agreement shall be charged on all tickets sold in the same manner as set forth above or as set forth in the establishment of such fees and charges.

7. Fee Terms, Expenses and Charges:

- A. Basic Facilities Fee: Licensee shall pay to City a "Basic Facilities Fee" per game played at the Coliseum according to the following schedule:

| <u>Hockey Season Year</u> | <u>Per Game Fee</u> |
|---------------------------|---------------------|
| 2005-2006                 | \$2,500             |
| 2006-2007                 | \$3,000             |
| 2007-2008                 | \$3,000             |

B. Guaranteed Number of Games and Marketing:

- 1) Licensee shall and does guarantee that a minimum of 38 official regular season UHL games will be played on the Premises in the Coliseum during the hockey season occurring during the term of this Agreement. If the Licensee fails to meet this guarantee of 38 games per season, Licensee shall pay the City the per game Basic Facilities Fee as set forth in 7(A) for the season in question times 38 plus any other expenses or charges. Credit will be given for any sums paid by Licensee to City for any games played during that season.
  - 2) A prorated deduction shall be made for any games cancelled by Licensee (and not rescheduled) because of causes beyond the Licensee's control including, but not limited to accidents, an act of God, weather, failure of equipment, strikes, lockouts, or any orders or regulations of any federal, state, or local government authority, or because of the City's failure to provide the facility in a suitable fashion for ice hockey.
  - 3) Marketing of Hockey Team by Licensee: Licensee acknowledges that it is important to the success of the hockey team to appropriately market the hockey team and games and that this is in the best interest of both Licensee and City. Therefore, Licensee agrees, at a minimum, to take the actions and meet the standards for such marketing set forth in the Action Plan which is attached hereto and made a part hereto as Exhibit B. Failure by Licensee to undertake such marketing actions or expend the minimum funds shall constitute a material breach of this Agreement.
- C. Practice Time: Practice time for the Licensee provided pursuant to Paragraph 1 will be included in the Basic Facilities Fee. The charge for use of the Coliseum for practice time by any visiting team will be the then current Civic Center rate for such use.

- D. Special Facilities Charges: Licensee agrees to pay, in addition to other fees, charges and expenses, to City any and all "Special Facilities Charges." "Special Facilities Charges" as described in Paragraph 19 shall be defined as the cumulative total owed to the City for facilities and services furnished by City to Licensee in addition to the Basic Facilities Fee as described in Paragraph 18 of this Agreement. Such charges shall be based upon a Schedule of Charges on file in the Office of the Director of Civic Facilities.
- E. Event Staffing: The City shall provide as part of the Basic Facilities Fee such event staff personnel as the City deems necessary for the presentation of each game; such staff will not exceed a maximum of 1 supervisor, 12 ticket takers, door guards, 14 ushers, 1 usher supervisor, 6 peer security, 4 police officers, 1 ticket seller supervisor and 8 ticket sellers, 1 guest services assistant, 1 sound and house lights operator, 1 spotlight operator, 1 message board operator, 1 alarm security operator, 2 EMS attendants, and 1 ice resurfacing machine operator. Such event staff shall be under the exclusive supervision and control of the City. All on ice staffing required for production and presentation of the hockey game shall be provided and paid for by the Licensee, and shall be under the Licensee's exclusive supervision and control.
- F. Out-of-Pocket Expenses: Licensee agrees to pay, in addition to other fees, charges and expenses, to City any and all "Out-of-Pocket Expenses" incurred in connection with this Agreement. "Out-of-Pocket Expenses" shall be defined as any and all expenses advanced by City on behalf of Licensee in connection with this Agreement in City's complete and exclusive discretion unless otherwise identified in this Agreement, including without limitation, expenditures for payment of stage hands for special events, ticket printing, outside equipment rental, building or property damage (including, but not limited to, dasher glass unless broken during an official UHL game), catering service, towels and flowers.
- G. Other Expenses: Other than the fees, charges, and expenses set forth in this Agreement, Licensee shall only be liable for those additional expenses and Licensee requests in writing or that the parties mutually agree are necessary.
- H. Rebate: City agrees to credit or pay Licensee for an attendance rebate per game for each hockey season, based on turnstile count, to be credited or paid at settlement, according to the following schedule:

### Hockey Season Year

Based on turnstile counts:

|           |                                   |
|-----------|-----------------------------------|
| 2005-2006 | \$0.25 per attendee from 1-80,000 |
|           | \$0.75 per attendee over 80,000   |
|           | \$1.00 per attendee over 100,000  |
|           | \$1.25 per attendee over 125,000  |
| 2006-2007 | \$0.50 per attendee from 1-80,000 |
|           | \$0.75 per attendee over 80,000   |
|           | \$1.00 per attendee over 100,000  |
|           | \$1.25 per attendee over 125,000  |
| 2007-2008 | \$0.50 per attendee from 1-80,000 |
|           | \$0.75 per attendee over 80,000   |
|           | \$1.00 per attendee over 100,000  |
|           | \$1.25 per attendee over 125,000  |

#### 8. Payment and Settlement:

- A. Licensee shall pay to the City the Basic Facilities Fee, any Special Facilities Charges, out of pocket expenses, or other costs or expenses incurred in accordance with this License Agreement. The City will deduct from each game settlement the appropriate amounts as set forth in paragraphs 5, 6 and 7 hereinabove from gross ticket sales derived from each game. Settlement shall be completed within 72 hours after each game. At settlement, Licensee shall, upon request, be provided turnstile numbers and ticket "deadwood." Should the total payment required for each game in the Coliseum not be met at settlement, the balance required to meet the payment required for each game in the Coliseum will be deducted from the game settlement of the successive hockey game and each game thereafter until paid in full. In the event of any deficit after the final game of the season, the Licensee will pay such additional amount to the City within ten days of the final home game of the season. However, City may require Licensee to pay any balance due the City at any time and the Licensee will pay City any such balance within 15 days after the date of any such notice to pay such balance.
- B. Licensee further agrees that City shall be entitled, in City's sole and exclusive discretion, to deduct payment of any amount owed by Licensee to City, including, without limitation, Admissions Tax, Basic Facilities Fees, Special Facilities Charges and Out-of-Pocket Expenses, directly from the Gross Receipts of each game prior to any determination of any amount to be disbursed to Licensee. Any such deduction shall be fully documented by the City, in writing, and an accounting for such deductions provided to Licensee at the time of settlement.

9. Cancellation:

- A. Licensee agrees to maintain and operate a hockey team for the term of this Agreement and the three hockey seasons covered by this Agreement and will not cancel this Agreement. If this Agreement is cancelled or terminated by either party for any term of the License Agreement, Licensee will pay City the full amount of the Basic Facilities Fee and all other fees, charges, and expenses due the City for the 2005-2006 hockey season or the remainder thereof less any amounts Licensee has paid the City prior to such cancellation or termination, provided that any such cancellation or termination by the City is due to or in some way related to some fault, failure to perform, or breach by Licensee relating to this Agreement.
- B. In the event that City should determine that a reasonable basis exists for concluding either that there has been a default, nonperformance or breach of any of the warranties, terms or conditions of this Agreement by Licensee or that Licensee has abandoned or cancelled the License, City shall have sole and complete discretion to declare the Agreement to be terminated, and/or deny Licensee use of the Premises for one or more hockey games, and shall notify Licensee in writing. In the event of termination or failure of Licensee to fulfill the guaranteed number of games set forth in Paragraph 4 and Paragraph 7(B), Licensee shall pay on demand to City, the amount due under the Agreement for the guaranteed minimum number of games and any outstanding special facility charges and out-of-pocket expenses for the balance of such hockey season. As security for such payment and Licensee's compliance with the terms of this Agreement, Licensee shall deliver to City within 10 days of the date of this Agreement a letter of credit approved by the City in an amount of ninety five thousand and no/cents (\$95,000.00). The security shall be valid for the term of this Agreement or automatically renewable for the term of this Agreement. If such security is renewed annually or threatened to be cancelled and Licensee does not replace it at least 20 days before such event, that shall be deemed a breach of this Agreement and the City shall be entitled to exercise its rights to the security. Such security shall be returnable to Licensee upon the Licensee's full compliance with all of the terms of this Agreement or automatically renewable for the term of this Agreement.
- C. Should this License Agreement be terminated or cancelled, the City further reserves the right to contract with or obtain other entities who may provide a hockey franchise or hockey club that will play at the Roanoke Civic Center or otherwise provide for use of the Coliseum as City deems appropriate.

10. Insurance: Licensee shall obtain and maintain, until the completion of this Agreement, commercial general liability insurance and other coverage as listed below with respect to claims arising out of the subject matter of this Agreement. The amount of such insurance shall not be less than:

- A. General aggregate \$1,000,000, which shall include a broad form contractual liability clause.
- B. Products Completed/Operations Aggregate \$1,000,000.
- C. Personal and Advertising Injury \$1,000,000.
- D. Each Occurrence \$1,000,000.
- E. Above amounts may be met by umbrella form coverage in a minimum amount of \$1,000,000 aggregate; \$1,000,000 each occurrence.
- F. Applicable Workers' Compensation Insurance as required by law with waiver of subrogation as to the City and those named as additional insureds below.
- G. Licensee's property: Licensee shall, at its sole cost and expense, obtain and maintain during the life of this Agreement a property insurance policy written on an "all risk" basis insuring all of the Licensee's personal property, including, but not limited to, equipment, furniture, fixtures, furnishings, and improvements which are Licensee's responsibility for not less than full replacement cost of such property. All proceeds of such insurance shall be used to repair or replace Licensee's property.

Licensee shall name City, the Roanoke Civic Center Commission, their officers, agents, employees and volunteers as additional insureds as their interests may appear on the above policies, except for the Workers Compensation policy, and shall include an additional insured endorsement to the policy or policies.

Licensee shall furnish the City by September 24, 2005, certificates evidencing the required insurance coverage and expressly providing that such coverage shall not be cancelled or materially altered except after thirty (30) days prior written notice of such cancellation or material alteration has been provided to City, c/o Director of Civic Facilities at the address set forth in Paragraph 27 of this Agreement. In the event that proper evidence of such insurance is not so provided to the city, City reserves the unqualified right to deny Licensee use of the Premises and/or to cancel any games or this Agreement in accordance with Paragraph 9 above.

11. Indemnification and Allocation of Risk:

- A. Licensee agrees to be responsible for and pay, indemnify, and hold harmless the City, the Roanoke Civic Center Commission, their officers, agents, employees, and volunteers against any and all claims, damages, injuries, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, of any type or nature resulting from any claim or legal action of any nature whatsoever,

whether or not reduced to a judgment or settlement, or for any liability of any nature whatsoever that may arise against City, the Roanoke Civic Center Commission, their officers, agents, employees, or volunteers in connection with any games or in connection with any of the rights and privileges granted by City to Licensee in this Agreement, including, without limitation, any patent, trademark, franchise, copyright, libel or defamation claim or suit and any claim or suit based upon Licensee's or Licensee's agents, servants, employees or invitees' acts or omissions, intentional, negligent, or otherwise. Licensee further warrants that all copyrighted materials to be performed during any games or otherwise have been duly licensed or authorized by their copyright owners and Licensee agrees to be responsible for all license and royalty fees incurred by reason of the performance and, in addition to any provisions contained elsewhere in this Agreement, to indemnify and hold City, the Roanoke Civic Center Commission, their officers, agents, employees, and volunteers harmless from any and all claims, losses or expenses incurred with regard thereto.

B. Receipt and storage of equipment or property by City for Licensee shall be at Licensee's expense and risk. Licensee agrees to hold City harmless for any damage to or loss of any property of the Licensee however such damage or loss shall occur, including, without limitation, damage due to City's negligence.

12. Compliance with Laws and Regulations: Licensee shall comply with all laws, ordinances and regulations adopted or established by federal, state or local governmental agencies or bodies and with all City rules and regulations applicable to the Premises, and Licensee shall require that its agents, employees, contractors or subcontractors do likewise.
13. Licenses and Permits: Licensee shall pay promptly all applicable taxes and fees, including City admissions tax, and obtain all licenses or permits for use of the Premises as required by federal, state or local laws and ordinances upon demand, therefore, by City.
14. Advertising Rights: Any and all advertising rights granted to Licensee by this Agreement shall not conflict with and are hereby subject to any contracts or obligations City has with others, including Arena Ventures, LLC, and Bottling Group, LLC, d/b/a The Pepsi Bottling Group, and as to the City and Licensee, the right to all permanent advertising and all revenues therefrom remains with the City and will be handled by the City as the City deems appropriate.

Subject to this limitation, Licensee is granted only the following advertising rights:

- A. Licensee shall retain only the rights to permanent advertising in the Coliseum outer Concourse and ice resurfacing machine, and temporary removable advertising inside the coliseum seating bowl area only during hockey games. Location of such advertising must be approved in advance by the Director of

Civic Facilities or his or her designee and cannot conflict with other advertising that might be present and shall not obstruct any permanent advertising or other information signage that may be placed by the City or its representatives.

- B. Licensors shall pay Licensee a commission equal to 60% of revenue (net of applicable taxes and out-of-pocket costs) from each sale of Fixed Advertising by Licensee during the Term, payable incrementally as and when payments are made by the advertiser. Out of Pocket costs are defined as expenses incurred in connection with replacing and maintaining (other than routine maintenance) Fixed Advertising, designing and constructing new Fixed Advertising panels or other installations. When an existing Fixed Advertising contract is renewed, such renewals on existing fixed advertising contracts are subject to any applicable commissions due for such renewals.
  - C. In-ice logos are the sole responsibility of the Licensee including all materials and labor for installation of said logos.
  - D. Temporary advertising must be removed by the Licensee immediately after each game unless otherwise agreed to in writing by the Director of Civic Facilities or his designee.
  - E. Licensee may elect to make capital improvements in the Coliseum outer concourse to create additional Fixed Advertising inventory, which has the consent of the NBDL for the duration of their license agreement ending May 31, 2006 and subject to the approval by Licensors. Advertising on such terms shall be paid, first to reimburse Licensee for all reasonable and documented costs related to the capital improvement and, then, sixty percent (60%) to Licensee and forty (40%) to Licensors. Licensee shall comply with all applicable laws, rules ordinances, and regulations in connection with procurement of such capital improvements.
15. Tickets and Ticket Office: City shall maintain control and direction of ticket office, ticket sales, ticket personnel and ticket sales revenue. City has entered into an agreement with a ticket company that has the capability of providing electronic ticketing services. Licensee shall honor the fees, conditions and requirements contained in City's Agreement with such ticketing company. In addition, the following rules shall apply:
- A. Agencies: City shall have the right to offer tickets for sale at all of its regular ticket agencies. Licensee shall have the sole right to sell season tickets and shall be solely responsible for any refunds for season tickets, and admissions tax shall be paid in accordance with Paragraph 5.
  - B. Charges: City shall provide ticket office facilities, the cost of which, in addition to other fees, charges and expenses in this Agreement, shall be 3% of net ticket receipts to be paid by Licensee, provided that the calculation of net ticket



receipts shall not include receipts from season ticket sales and revenue from net ticket receipts for pre-season exhibition games shall be split by the City and Licensee equally. Licensee shall also pay 3.25% or prevailing rate of all credit card sales.

- C. Ordering of Tickets: All hard tickets must be ordered and arrangements for electronic tickets must be made by the City.
- D. Manifest: A printer's certified and notarized manifest shall be submitted in duplicate to the Licensee.
- E. Ticket Promotions, Discounts, and Printed Material: Information regarding all ticket promotions, discounts, and any related printed material must be presented to the Civic Center Box Office for approval prior to distribution or announcement. Such approval shall not be unreasonably withheld by the City. Such material presented at the Box Office without prior approval will not be honored.

Licensee shall sell all tickets at the prices as advertised or promoted; any deviations shall be approved in writing by City. Licensee shall provide 50 complimentary tickets to City for each game to be used at the sole discretion of Licensor. Licensee shall not sell or dispose of tickets in excess of the seating capacity of the Premises as approved by City. City reserves the right for safety purposes to limit the number of persons entering the Premises at any time. Licensee agrees that no tickets shall be released for sale until City has received the security in acceptable form set out in Paragraph 9 above.

City reserves the right to make ticket refunds for cause, in the sole and exclusive discretion of City, in keeping with the City's policy of serving the public in the best possible manner and maintaining public faith as set out in Paragraph 24 of this Agreement.

16. Parking:

- A. The City retains control of all parking spaces and shall operate all parking in its sole discretion. The City shall control all parking and shall retain all revenues generated therefrom.
- B. No activities and no advertising of any type shall be conducted on or in any Civic Center parking facilities nor any other use of the Civic Center parking facilities shall be permitted, except with the express written consent of Civic Center management.
- C. Shuttle bus service for hockey game attendees shall be made available by the City only when the Director of Civic Facilities or designee determines that such service should be provided. Any fees that may be charged to passengers for

shuttle bus service shall be at the sole discretion of the City and any such revenue therefrom will be retained by the City.

17. Event Requirements:

- A. Without the prior approval of City, Licensee shall not bring onto the Premises any material, substance, equipment or object which may endanger the life of, or may cause bodily injury to any person on the Premises or which may constitute a hazard to property thereon as reasonably determined by City. City reserves the right, in City's sole and complete discretion, to refuse to allow any such material, substance, equipment or object to be brought onto the Premises and the further right to require its immediate removal therefrom.
- B. Licensee certifies to City that it has a valid contract or contracts with the United Hockey League and each hockey player and will maintain such in order to be able to present the hockey games required by this Agreement.

18. Basic Facilities:

- A. In addition to use of the Premises, City shall provide to Licensee at City's expense heating and air conditioning, overhead light for ordinary use, of a public address system, dasher boards, scoreboard (excluding advertising) and related equipment, and use of an ice resurfacing machine and goals. Ice, including painting and lines necessary for presentation of the game, but excluding in-ice advertising, shall be included in the Basic Facilities Fee.
- B. City retains the right and power to specify the minimum number of personnel utilized by Licensee for police protection of patrons attending games. Licensee shall pay for the cost of any personnel deemed necessary that exceeds the number of personnel outlined in Paragraph 7(E).

19. Special Facilities: Special Facilities shall include, without limitation, services and facilities in addition to the above Basic Facilities as specially requested by Licensee including, without limitation, the following: Rental of in-house equipment such as stages, pianos, projectors and forklifts; special mechanical or electrical connections, equipment or service, stage hands, scoreboard operator, matrix operator, catering, and staff overtime. Payment for special facilities shall be made in accordance with Paragraphs 7D and 8.

20. Utility Connection: Contracts for installation or alteration of electricity, gas and plumbing shall be made by and at the expense of Licensee with contractors approved in writing by City, which approval shall not be unreasonably withheld. All such connections and related work will be at the expense of the Licensee, including any related costs incurred by City, and will be subject to prior written approval by the Director of Civic Facilities.

21. Stagehands: Qualified technicians and stagehands, as approved by the Director of Civic Facilities, may be employed for use on the Premises for special presentations including rehearsals. All lighting, sound and technical equipment must be operated by personnel authorized by the City, which authorization shall not be withheld unreasonably. All stage hands must be paid for by the Licensee for these special presentations.
22. Food and Merchandise Sales:
- A. Food and beverages shall be served through City or City's food service operator. Licensee shall receive 25% of net concessions sales (after sales tax and 54% of costs of goods sold). No food or beverages of any kind may be brought in by the Licensee. Any catering must be provided by the City or City's food service operator and paid for by the Licensee.
  - B. City shall, during the term of this agreement, authorize Licensee to sell brochures, booklets, programs, novelties or other such material during hockey games at areas of the Premises designated by City, at no charge to Licensee, with the proceeds to be retained by Licensee. Licensee assumes and is responsible for and will pay any taxes or other fees or charges due for any such sales.
23. Control of Facility and Right to Enter: In permitting the use of the Premises, City does not relinquish the right to enforce all necessary and proper rules and laws for the management and operation of the Premises and the safety of the citizens. Duly authorized representatives of City may enter the Premises at any time and on any occasion without restriction for the enforcement of any such rules and laws. City reserves the right to remove or cause to be ejected from the Premises any person engaging in dangerous, unsafe, or illegal conduct and neither the City nor its agents, officers or employees shall be liable to Licensee or others as a result of the exercise by City of such right. City reserves and maintains the absolute right to stop or prevent a game and evacuate the Premises, where in City's sole and exclusive discretion such action is required for public safety, without any liability on the part of City. Doors to the Premises shall be opened for each game at such times and in the manner prescribed by City.
24. Action in Public Interest: Licensee agrees that it is the policy of City to serve the public in the best possible manner and Licensee agrees that it, its employees and agents shall at all times cooperate with City in effecting this policy and maintaining the public faith.
25. Agreement to Quit Premises:
- A. Licensee agrees to quit the Premises at the end of each of the dates and times as set forth in Paragraphs 1, 3 and 4 and at the end of the term or termination of this Agreement and leave the Premises and any other City property in the same

condition as at the commencement of the Agreement, ordinary wear and tear excepted.

- B. Licensee shall pay on demand to City as an Out-of-Pocket Expense the cost of repair or replacement for damages deemed by City in its sole and complete discretion to be material, and not as a result of ordinary wear and tear, which occurred to the Premises or for damages to any other City property as a result of Licensee's use of the Premises.
  - C. Licensee shall remove all of its materials or items from the Premises as the City may direct and/or at the end of the hockey season and/or Licensee shall remove all of its materials or items from the Premises or other City property at the termination of this Agreement. City may remove at the expense of Licensee all such materials or items remaining on the Premises at the end of the hockey season or at the termination of this Agreement. Licensee shall be responsible for payment of storage costs for such material or items and City shall in no way be responsible for and Licensee agrees to hold City harmless for any loss, damage or claims with respect to any materials or items removed or stored under the terms of this Agreement.
- 26. Assignment: Licensee shall not assign or transfer any right or interest under this Agreement, including, without limitation, the right to receive any payment, without City's prior written approval of such assignment and Licensee agrees that any such assignment without prior written approval of City shall be null and void.
  - 27. Notice: Notice to City required by this Agreement shall be sent by certified mail, return receipt requested, to City of Roanoke, c/o Director of Civic Facilities, P. O. Box 13005, Roanoke, Virginia 24030; notice to Licensee hereunder may be sent by regular mail or certified mail, return receipt requested, to Licensee's address or by facsimile to Licensee at (540) 345-4518, or at such other address as the parties may designate in writing to the other party.
  - 28. Certification: The undersigned hereby certifies that he or she is legally authorized to enter into this Agreement on behalf of Licensee and to bind Licensee to the terms and conditions contained herein and that Licensee is legally authorized to enter into this Agreement.
  - 29. Relationship to Other Parties: It is not intended by any of the provisions or any part of this Agreement to confer a benefit upon any other person or entity not a party to this Agreement or to authorize any person or entity not a party to this Agreement to maintain a suit pursuant to the terms or provisions of this Agreement, including, without limitation, any claim or suit for personal injuries, property damage or loss of profits or expenses.
  - 30. Default by City: In the event of any default or breach of any of the terms or conditions of this Agreement by City, Licensee agrees that City's liability shall be

limited to a prorated repayment for any game involved in such default of any amount of deposit or fee previously paid to City by Licensee during the applicable hockey seasons under this Agreement, less any applicable Special Facilities Charges or Out-of-Pocket Expenses.

31. Forum Selection and Choice of Law: By virtue of entering into this Agreement, Licensee agrees and submits itself to a court of competent jurisdiction in the City of Roanoke, Virginia, and further agrees that this Agreement is controlled by the laws of the Commonwealth of Virginia and that all claims, disputes, and other matters shall be decided only by such court according to the laws of the Commonwealth of Virginia.
32. Separate Provisions: If any provision of this Agreement should be held invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect. Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
33. Matters Beyond the Control of the City: The City shall have no liability or responsibility of any type to the Licensee for any failure to perform any of the terms or conditions of this License Agreement or the furnishing of any of the facilities, utilities, or services called for by this License Agreement that may be due to causes beyond the City's reasonable control including, but not limited to accidents, an act of God, weather, failure of equipment, strikes, lockouts, or any orders or regulations of any federal, state, or local government authority.
34. Nonwaiver: Any particular waiver or failure to enforce by the City of any term or condition of this License Agreement or breach thereof by the Licensee shall extend to that particular instance only and is not and shall not be a waiver of any of the terms or conditions of this License Agreement or other breaches by the Licensee thereof or the rights of the City under this License Agreement.
35. Nondiscrimination by Licensee:
  - A. During the performance of this Agreement, Licensee agrees as follows:
    - 1) Licensee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Licensee. Licensee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
    - 2) Licensee in all solicitations or advertisements for employees placed by or on behalf of Licensee will state that Licensee is an equal opportunity employer.

- 3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- B. Licensee will include the provisions of the foregoing subparagraphs A (1, 2, and 3) in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
36. Drug-free Workplace:
- A. During the performance of this Agreement, Licensee agrees to (i) provide a drug-free workplace for the Licensee's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of Licensee that Licensee maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- B. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract or Agreement.
37. Headings: The paragraph captions and headings in this License Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this License Agreement.
38. Books and Records: The City or its representatives shall have the right, upon written request to Licensee, to inspect copy and/or audit the books and records of Licensee regarding any matters or issues relating to or connected with this Agreement.
39. Faith-Based Organizations. Pursuant to Virginia Code Section 2.2-4343.1, be advised that the City of Roanoke does not discriminate against faith-based organizations.
40. Complete Agreement: This Agreement constitutes the final, complete and exclusive statement of the terms of the understanding between City and Licensee. All terms and conditions of this Agreement shall be binding upon City and Licensee, their heirs, successors or assigns, and cannot be modified by any oral representation or promise of any agent or other representative of either City or Licensee. This Agreement may be modified only by written instruments properly executed by City and Licensee.

**WITNESS** the following signatures:

WITNESS:

By: *Christina House*

Printed Name: Christina House

ATTEST:

By: \_\_\_\_\_

Mary F. Parker, City Clerk

Appropriation and Funds Required for  
this Contract Certified

\_\_\_\_\_  
Director of Finance

\_\_\_\_\_  
Date

\_\_\_\_\_  
Acct. #

Seen and Approved:

By: \_\_\_\_\_

Assistant City Manager for Operations

Approved as to Form:

\_\_\_\_\_  
Assistant City Attorney

ROANOKE SPORTS GROUP, LLC

By: *Kristen A. Dixon*

Kristen A. Dixon President, Governor

CITY OF ROANOKE, VIRGINIA

By: \_\_\_\_\_

Darlene L. Burcham, City Manager

Approved as to Execution

\_\_\_\_\_  
Assistant City Attorney

# Roanoke Professional Hockey Action Plan

## Advertising Plan

### Sales Strategy

1. Roanoke Professional Hockey Proactive Inventory – inventory that we market and sell directly to customers in advance.
  - a. Season Tickets
  - b. Mini-Plans
  - c. Group Sales
  - d. Corporate Partnerships
2. Season Tickets and Mini-Plans
  - a. Renewals – most done before the end of the season
  - b. Sales staff prospects for new business
  - c. Many new season tickets will be corporate partnerships
  - d. Will search local colleges for prospective interns
  - e. Leads are put into system:
    - i. They are sent a letter with a copy of their clipping in the news
    - ii. Follow-up phone call
    - iii. Seek to schedule a face-to-face appointment
3. Corporate Partnership Sales Campaign
  - a. Networking through local chambers, civic clubs, etc.
  - b. Renewal process ongoing
  - c. Business Strategies
    - i. Direct Mail
    - ii. Database
    - iii. Organized approach to prospects
    - iv. After initial contact(s) direct mail, we follow up with phone call seeking an appointment
    - v. At face-to-face meetings we implement sales method (2 call close) needs/solution based sales
    - vi. Once partnership established we must follow through and fulfill for long-term relationship
    - vii. Under Promise/Over Deliver
    - viii. Goal is 90-120 quality potential “new corporate business” appointments from this campaign
    - ix. Package the product to fit the needs of each potential customer
    - x. Focus on the affordability of the product as family entertainment
    - xi. Utilize all networks to reach maximum number of clients
    - xii. Treat every business, organization or individual as a potential customer/partner



#### 4. Group Outings

- a. Networking
- b. Build group nights into most corporate partnerships
- c. Develop "Pre-Determined Group Nights" and identify other specific types of groups to contact regarding Group Outings
- d. Follow the specific strategies for group prospecting (talk to everyone at games, visit groups and find new leads through spouses, etc., talk to season ticket holders)
- e. Merchant Nights – to be explained in detail later

#### 5. Miscellaneous Sales Strategies

- a. Improve our skill levels thus leading to more sales and better customer relations
- b. Improve our technical capabilities, which will lead to more sales – better tracking of databases, organized approach to calls and follow-ups and better customer relations
- c. Capturing more email addresses makes us more effective, makes the customer feel more involved and saves money
- d. Roanoke Professional Hockey Electronics Newsletter
- e. Strategic Broadcast Emails and faxes throughout the year

The focus of our organization is to create a sense of urgency to be involved with the Roanoke Professional Hockey. We have to put a quality product on the ice and are looking to create an excellent overall entertainment package. Once we meet our goals and pre-sell as many groups as possible in the summer, an atmosphere will be created at our games that will make us the "thing to do" in Roanoke. This is the foundation for continued seasons of success in Roanoke.

Crowds create more crowds. If we are successful in generating excitement for large crowds, there will be a sense of urgency to be involved with the team again. This will help increase the value of a season ticket.

The outcome of this season will have a direct effect on both renewal rates and new sales. Fans will always want to stay with a winner. This element, however, can not be counted on and this plan will better prepare us to meet our goals regardless of team success in the playoffs.

# Goals

## One Year Goals

- Corporate Goals – “Cash” Sales - \$30,000
- Season Tickets – 1,000 season tickets / \$380,000
- Mini-Plans – 100 ticket plans / \$13,000
- Group Tickets – 15,000 tickets / \$120,000 revenue
- Walk-up 38,000 tickets / \$456,000 in revenue
- Improve team cohesiveness, camaraderie, chemistry and trust
- Sell out our Program Ad inventory by August 1, 2005
- Total integration of database into sales, marketing and promotional strategies
- Continual sales and marketing training and improvement
- Review and analyze media advertising placement so as to devise and implement an ad campaign that drives more walk-up attendance
- Develop solid relationships with local businesses and organizations
- Stay on track with overall action plan

## Three Year Goals

- Maintain effective, productive and cohesive staff
- Grow Pro-Active Inventory Sold at a rate of 5% - 10% per season during this time
- Steadily increase community involvement and awareness while rebuilding trust
- Win a Championship

# Action Plan

- Name the team contest
- Name the mascot contest
- Establish season ticket pricing and perks for 2005/2006  
ASAP
- Mini-Plan quantities and perks for 2005/2006  
ASAP
- Finalize 2005/2006 Corporate Partnership Pricing  
ASAP
- Get Play-by-Play for "on-hold" if possible  
ASAP
- Grand Re-opening of store (name store)  
ASAP
- Budweiser boxes have arrived – get them out with sign up forms  
ASAP
- Pepsi 'Meet the Roanoke Prof. Hockey where they Eat' Campaign in February  
ASAP
- Gather other area/regional sports teams' schedules in regard to Roanoke schedule  
Ongoing
- Attain average paid attendance of 3000 fans per home game  
Ongoing
- Work with box office and ticket staff to more accurately track group numbers  
Ongoing
- Continue to enhance relationship and involvement with Chamber of Commerce  
Ongoing
- Work with box office towards more congenial working relationship with sales staff  
And customers  
Ongoing
- Work with box office to capture more data on ticket buyers so as to  
Implement sales strategies that will help with attendance  
Ongoing
- Link all sponsors on website  
Ongoing
- Better control of website for more current information  
Ongoing
- Identify various holiday marketing and promo opportunities with respect  
To schedule  
Ongoing
- Work with the UHL to bring in rivals on weekend dates  
Ongoing

- Improve relationships with local media Ongoing
- Provide the best PR Department in minor League Hockey Ongoing
- Timely and accurate press releases Ongoing
- Newsletter Ongoing
- Build the image of the Roanoke Professional Hockey in the community Ongoing
- Improve inter-office communications (minutes, copy emails to all) Ongoing
- Develop more programs to get into schools (Geography – player and team Locations, Art – coloring contests/program covers, Math – stats, Science – making ice Ongoing)
- Allow local retired players free access to games (Gold Pass) October 2005
- Job Descriptions and pay structures revised March 1, 2005
- Establish and Mandate a standard prospecting system and activity Requirements for various selling cycles of Feb – Mar/ Apr – Oct / Nov – Jan 1, 2005 June
- Establish a “working” database for season ticket prospecting June 1, 2005
- Finalize Budget June 1, 2005
- Order St. Patrick’s Day Jerseys – March 3, 2006 June 1, 2005
- Establish an advisory board comprised of local business leaders June 1, 2005
- Contact all current season ticket holders about renewing June 15, 2005
- Contact corporate partners about renewing June 15, 2005
- Decide on whether or not to implement “Early Bird” group specials June 15, 2005
- Devise a monthly banking and/or credit card payment option

|  |       |
|--|-------|
| Strategy that is beneficial to the team  | June  |
| 15, 2005   |       |
| • Outline corporate partnership sales plan for generating new business                           | June  |
| 15, 2005   |       |
| • Have in place 1 or 2 full time ticket sales people   | April |
| 15, 2005   |       |
| • Have 1 or 2 unpaid Sales interns in place  | April |
| 15, 2005   |       |
| • Develop corporate ticket Distribution/Usage strategy (no more Empty paid seats)                | April |
| 30, 2005   |       |
| • Coordination of contracts billing and accounting system  | April |
| 30, 2005   |       |
| • Train sales staff; establish goals, policies and procedures                                    | May   |
| 1, 2005  |       |
| • Brainstorm to come up with 50 main themes/promotions for next year                             | May   |
| 10, 2005   |       |
| • Review Marketing/Advertising campaign and brainstorm for next season                           | May   |
| 10, 2005   |       |
| • Develop a special KIDS Season ticket   | May   |
| 17, 2005   |       |
| • Establish all group outing guidelines and perks  | May   |
| 17, 2005   |       |
| • Brainstorm to come up with 50-100 on-ice contests for next year                                | May   |
| 17, 2005   |       |
| • Identify a list of at least 50 pre-determined group night candidates                           | May   |
| 24, 2005   |       |
| • Devise and develop a strategic method of media/flyers/posters etc. to Better stimulate walk-up | May   |
| 31, 2005   |       |
| • Brainstorm for more ways to draw traffic to website  | May   |
| 31, 2005   |       |
| • Devise and better develop the Roanoke Kid's Club Strategy                                      | May   |
| 31, 2005   |       |
| • Identify game night activities that will be a part of corporate inventory                      | May   |
| 31, 2005   |       |
| • Devise and develop group sales prospecting strategy  | May   |
| 31, 2005   |       |
| • Summer appearances need to be outlined   | June  |
| 7, 2005  |       |
| • Contact Scout Groups to identify best nights for scouts  | June  |
| 7, 2005  |       |
| • Contact D.A.R.E. to discuss 1 or 2 special nights  | June  |
| 7, 2005  |       |

- Develop a special holiday theme group outing  
7, 2005 June
- Develop and market a special birthday package for Kids Club members  
14, 2005 June
- Wrap up a majority of corporate renewals  
14, 2005 June
- Devise a game night media partner strategy for 05-06  
14, 2005 June
- Further develop website to be a better marketing tool  
14, 2005 June
- Pocket schedule pricing and layout  
14, 2005 June
- Schedule poster layout  
14, 2005 June
- Final UHL schedule  
2005 July
- Develop season ticket VIP benefit program  
6, 2005 July
- Devise and develop strategy to better leverage website to stimulate  
Single game sales July
- 6, 2005
- Outline golf outing  
6, 2005 July
- Secure sponsors for appropriate game night sponsorship opportunities  
6, 2005 July
- Explore post game activities that might stimulate attendance  
6, 2005 July
- Explore game day afternoon business seminars that may generate attendance  
Sept 2005 July-
- Recruit game night interns  
Sept 2005 July-
- Review of off-ice officials  
2, 2005 Aug
- Determine jersey auction dates  
2, 2005 Aug
- Coordinate travel and accommodations  
15, 2005 Sept
- Develop inventory process for game night's merch/chuck-a-puck programs  
15, 2005 Sept
- Begin layer move-in / immigration process  
1, 2005 Oct
- Complete the media guide  
1, 2005 Oct
- Work the plan

**Major areas we need to focus on to sell the groups and drive mass amounts of paid tickets:**

1. Charity groups
2. Scouts
3. Youth sports
4. Guns and Hoses tournament (charity event)
5. Churches
6. Political
7. City groups
8. Ethnic groups
9. SC-4
10. Police, Firemen, Immigration, Border Patrol, Air Force
11. School kids program

**Q. How do we utilize/entice these above groups?**

**A. Offer the fundraiser and the group discount builds to suit each specific group**

**Ways to promote Roanoke Professional Hockey**

1. Web Site
2. Radio
3. K-Mart
4. Target
5. Local grocery chain
6. Pepsi
7. Bud
8. Dominos
9. McDonalds
10. We must display posters at corporate sponsor's locations
11. Cross promote with our partners
12. Lets locate all newspaper sources and get presence in the paper. We are the thing to do, so let's use our stroke to get in.
13. Basic grass roots underground marketing (flyers, mass distribution)

## IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing the City Manager to enter into a License Agreement between the City of Roanoke and Roanoke Sports Group, LLC, for an initial term of three years, with an additional two year term upon mutual agreement of the parties, which will provide for use of the Civic Center Coliseum and certain related facilities by Roanoke Sports Group, LLC, to provide a certain number of United Hockey League (“UHL”) games in the coliseum and to provide certain office space and other space to Roanoke Sports Group, LLC for use during the term of the License Agreement; authorizing the City Manager to take such further action and execute such documents as may be reasonably necessary to provide for the implementation and administration of the License Agreement upon certain terms and conditions; and dispensing with the second reading of this ordinance by title.

WHEREAS, the Council of the City of Roanoke has held a public hearing on this matter after proper advertisement of such hearing, all as required by §§15.2-1800, et seq., of the Code of Virginia (1950) as amended.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. The City Manager and City Clerk are authorized to execute and attest respectively, a License Agreement between the City and Roanoke Sports Group, LLC, for an initial term of three years, with an additional two year term upon mutual agreement of the parties, which will provide for use of the Civic Center Coliseum and certain related facilities by Roanoke Sports Group, LLC, to provide a certain number of UHL games in the coliseum and to provide for the use of 736 square feet of office space at the Roanoke Civic Center upon certain



terms and conditions as set forth in the attachment to the City Manager's letter to this Council dated July 18, 2005. The License Agreement is to be in a form substantially similar to the one attached to such letter. All necessary documents shall be upon form approved by the City Attorney.

2. Pursuant to Section 12 of the City Charter, the second reading of this Ordinance is hereby dispensed with by title.

ATTEST:

City Clerk.